



**International covenant
on civil and
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Initial report

BOSNIA AND HERZEGOVINA*

* The report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

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Introduction

1. This Initial Report on Implementation of the International Covenant on Civil and Political Rights (ICCPR) for the period 1994-2004 presents in a transparent way, in accordance with the UN Human Rights Committee Guidelines, the current state of the civil and political rights in Bosnia and Herzegovina. By the succession after 01 September 1993, Bosnia and Herzegovina had ratified this international instrument. Two years after Bosnia and Herzegovina had also ratified the Optional Protocol regulating this field.
2. Due to war and lack of information for the period 1992-1995, this Report does not cover the state of respect of civil and political rights related to provisions of the International Covenant on Civil and Political Rights. However, it is necessary to point out that the tragic war events in Bosnia and Herzegovina resulted in numerous examples and forms of torture, inhuman and degrading treatment or behaviour that had all manifested themselves contrary to the requirements defined by the Covenant, that is through the occurrences forbidden by the Covenant, such as pain offences, serious body and mind sufferances, in their heaviest forms. The victims of all forms of war torture who are still searching for satisfaction for the pains and sufferings they underwent, might be classified into two groups: a) entire civil population residing on the territory of Bosnia and Herzegovina in the beginning and during the war activities, and in the period after cease of the war conflicts, b) categories of population as victims of the cruellest forms of torture such as: persons who were deprived of freedom and put into war camps by use of force and inhuman treatment, persons belonging to national minorities present during the war activities in certain areas, children of all age as the most vulnerable category - with permanent consequences of war activities in the form of physical and mental handicap, women victims of sexual abuse, members of armed forces with permanent consequences of the post-war syndrome, etc. If we take all mentioned categories into account, we come to conclusion that it is hard to separate any category of population who was not, in the 1992-1995 period, directly or indirectly exposed to torture with a minor or major war and post-war consequences.
3. Starting with the provisions of the Article 40 of the International Covenant on Civil and Political Rights binding the Member States to submit the report on measures undertaken to implement the rights recognized by this Covenant, as well as on results achieved in exercise of those rights, Bosnia and Herzegovina has taken up to fulfil its duties.
4. This document does not contain information on political structure, legal system foundation and other statistical figures characteristic of the state, which is all contained in the Bosnia and Herzegovina CORE document submitted to the Human Rights High Commissioner Office under No. HRI/CORE/1/Add.89/Rev.1.
5. Respecting recommendations from the UN Guidelines, a great number of the state level, both entities and the BiH Brcko District experts from all parts of Bosnia and Herzegovina, participated in preparation and construction of this document. The state level participants were the following: Ministry for Human Rights and Refugees, Ministry of Justice, Ministry of Security, Ministry of Foreign Affairs, Ministry of Civil Affairs, Bosnia and Herzegovina Statistics Agency, Constitutional-Legal Commission of the House of Representatives of

Bosnia and Herzegovina Parliamentary Assembly, Constitutional Court of Bosnia and Herzegovina, BiH Regulatory Communication Agency; competent ministries and institutions from both entities and the Brcko District of BiH: Federal Ministry of Justice, Federal Ministry of Internal Affairs, Federal Ministry of Labour and Social Policy, Constitutional Court of Federation of Bosnia and Herzegovina, Federal Statistics Institute, Gender Center of Federation of Bosnia and Herzegovina, The Republika Srpska Ministry of Justice, The Republika Srpska Ministry of Internal Affairs, The Republika Srpska Ministry of Health and Social Protection, Constitutional Court of The Republika Srpska, Gender Center of The Republika Srpska, BiH Brcko District Police Forces and BiH Brcko District Judicial Commission. The international and national non-governmental organizations have also given their contribution as well as the academic institutions and experts who scientifically and expertly research the issues discussed in this document and the state of practice in Bosnia and Herzegovina. It means that a great number of scientists, experts and other creators have directly participated in construction of this report.

6. It should be pointed out that some questions seeking answers as per the International Covenant on Civil and Political Rights are more widely elaborated in the reports that Bosnia and Herzegovina had already submitted to competent UN committees, so that this document works on the segments that had not been previously presented. This particularly concerns the contents of the following reports: Initial Report on Economic, Social and Cultural Rights in Bosnia and Herzegovina (ICESCR), Report on Elimination of All Forms of Discrimination against Women (CEDAW), The First Report of Bosnia and Herzegovina to the Committee for Children's Rights (CRC), Report on Elimination of All Forms of Racial Discrimination (CERD), Report of Bosnia and Herzegovina on Legislative and Other Measures on Implementation of Principles Established in the Framework Convention on Protection of National Minorities, Initial Report of Bosnia and Herzegovina against Torture and Other Cruel, Inhuman and Degrading Punishments and Acts (CAT), and Report of Bosnia and Herzegovina upon requests of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CTR).

7. In accordance the UN Guidelines, this document has tried to show the actual state of application of the International Covenant on Civil and Political Rights in Bosnia and Herzegovina, with basic motivation to achieve positive results in this country, as well as the progress in the domain of respect of civil and political rights.

8. Appreciating the complexity and delicacy of the discussed matter that needs more intricate research and more favourable conditions and tools for its elaboration, the Ministry for Human Rights and Refugees of Bosnia and Herzegovina has made maximum efforts to respond in a most transparent way to the given task, in the way required by the provisions of the International Covenant for Civil and Political Rights.

Article 1. Right to self-determination

9. Since there was more said on the right to self-determination in preparation of the Initial Report on Implementation of the International Covenant on Economic, Social and Cultural rights in Bosnia and Herzegovina which was submitted to the competent UN Committee in the beginning of 2004, this report will pay more attention to the aspects concerning civil and political rights that had not been covered by the previous Report.

10. As per the constitutional provisions, Bosnia and Herzegovina is a democratic state consisting of two entities and Brcko District of BiH, constituted upon the decision made by the Arbitrary Commission for Brcko from 1999. Three constituent peoples live on equal basis, numerous national minorities and other citizens all of whom exercise their rights in accordance with the laws and based on free and democratic elections. Based on constitutional rights, all peoples, in principle, determine their economic, social and cultural development. It means that all citizens of Bosnia and Herzegovina may freely dispose of their natural resources and sources, without jeopardizing obligations deriving from the international documents.

11. The separate chapter of the Constitution of Bosnia and Herzegovina, Article II, deals with human rights and fundamental freedoms and it says that Bosnia and Herzegovina shall ensure to its citizens the highest level of internationally recognized human rights and fundamental freedoms, at the state, entities and Brcko District of BiH level. That is the reason why the Bosnia and Herzegovina Commission for Human Rights was established, as it is stipulated in the Annex VI of the General Framework Agreement, consisting of Chamber for Human Rights of Bosnia and Herzegovina and the BiH Ombudsmen for Human Rights. The mandate of the Chamber for Human Rights of Bosnia and Herzegovina, as a specific judicial instance, was completed in 2003 after what the judicial protection of human rights is implemented through the Constitutional Court of Bosnia and Herzegovina.

12. According to current constitutional provisions, all authorities in Bosnia and Herzegovina are bound to cooperate and provide unlimited access to all international instruments for monitoring of human rights established for Bosnia and Herzegovina, supervising bodies formed as per the Constitution of Bosnia and Herzegovina as well as all other organizations empowered by the United Nations Security Council with the mandate in the field of human rights or humanitarian law.

13. In Bosnia and Herzegovina, the conscience that the right to self determination and its implementation are essential condition and guarantee for respect and promotion of human rights has increasingly matured. It has been significantly facilitated by better and more successful synchronization of activities and work among all relevant authorities, including authorities of Bosnia and Herzegovina and institutions at all organizational levels, non-governmental sector and international representatives involved in the process of enhancement and protection of human rights. All this has contributed to continuously strengthen awareness on importance of international legal documents and their consistent implementation.

14. Bosnia and Herzegovina, as a complex state community, undertakes positive actions to enable to all peoples in its structure the right to self determination, under the basic condition to respect the Constitution and the law of this country, which means that the right to self determination shall be limited only in case of separate tendencies and events endangering the constitutional system and leading to breaking up the unity of the country and changing of its internationally recognized borders. This is always being done under assumption that the required rights do not exert influence to internal issues of other countries, and this is something that makes Bosnia and Herzegovina as a multinational and multiconfessional country especially sensitive. We always start from the assumption that the realization of the right to

self-determination should contribute to establishment of friendly relations and cooperation, both among the peoples of Bosnia and Herzegovina and peoples from neighbouring countries. At one hand, it will be a barrier to all forms of discrimination, and at other hand it will contribute to strengthening of international peace and understanding. There will be an effort made with high respect and tolerance to influence the overall quality of life both within Bosnia and Herzegovina and the wider region.

Seen as a whole, Bosnia and Herzegovina shows through its legislation and the judiciary system the equality of the constituent peoples (precisely applying international-legal terminology related to ethnical-cultural communities), in this case the Bosniaks, Serbs and Croats, on the territory of entire Bosnia and Herzegovina. However, the ethnic affiliation of the citizens is a limiting factor for full respect of political rights, especially of the passive right to vote, which will be outgrown by developing of the coming Law on Elections in Bosnia and Herzegovina.

15. It is known to the UN Committee for Human Rights that organizations and representatives of the international community, especially the High Representative's Office for Bosnia and Herzegovina as a special protectorate, give important contribution to implementation of civil and political rights in Bosnia and Herzegovina, resulting in the parallel system, double instruments of protection of human rights, which again bears insecure status of the individual and the citizen of Bosnia and Herzegovina. The consequence is that in Bosnia and Herzegovina, in these times, you cannot decide on many rights on your own, and all the more, the necessary conditions have not been created yet after the war events. It means that the issue of self-determination still deserves proper attention in Bosnia and Herzegovina and it seems that in a longer period it will be a matter of discussion and control of the national and international mediators and monitors.

16. Due to complexity and special character of the constitutional and legal system in Bosnia and Herzegovina set by the Dayton Peace Agreement, it is necessary to emphasize the role of the definitely most important factors in Bosnia and Herzegovina - The Office of the High Representative for Bosnia and Herzegovina (OHR) which was established by the Article II of the Annex 10 of the General Framework Peace Agreement for Bosnia and Herzegovina - Agreement on Civil Implementation of the Peace Solution. We should point out the fact that after more than nine years after the establishment of the peace in Bosnia and Herzegovina, the Office of the High representative is an institution participating or directly involving in work of the constitutional, legislative, executive and judicial authorities. The practice up to now shows that the High Representative has changed by his decisions the entities' constitutions, made new and changed the existing laws, exerted immediate influence on the judicial and executive authorities through a range of decisions on replacement of certain officials, that is public authority holders, replacement of the entities' presidents, judges and prosecutors, through decisions on establishment of real and territorial jurisdiction of the courts, establishment of the Independent Judicial Commission as a separate body of the Office of the High Representative for Bosnia and Herzegovina and appointment of a number of persons authorized to monitor the court proceedings and similar. Since the establishment of the OHR, four persons have been at the position of the High Representative. This institution, besides constitutional amendments,

in 1999, passed 3 laws and seven decisions; in 2000 17 laws and 28 decisions; in 2001 17 decisions, in 2002 24 laws out of total number of 38 passed acts; in 2003 2 laws, 36 decisions, 1 letter on appointment and 1 directive. Grand total makes 58 laws and 92 decisions in the five-year period. Many of the mentioned decisions represent laws in material sense, or else they contain them as attachments. This is the case, for example, with the OHR decision on passing the Law on amendments to the Law on Court of Bosnia and Herzegovina and the Decision passing the Law on Amendments on the Law on Prosecutor's Office of Bosnia and Herzegovina. Only in 2003, 12 such decisions were made. During this period the Parliamentary Assembly of Bosnia and Herzegovina adopted 132 laws. Besides the above mentioned, it should be emphasized that Bosnia and Herzegovina was accepted in the Council of Europe in 2002, that since 1992 (since recognition) it has been the member of UN and that it has its state authorities (institutions) which function in accordance with the Constitution (Annex IV of the General Framework Peace Agreement for Bosnia and Herzegovina). Since the signing of the Dayton Peace Agreement several elections were held, and it was for the first time in 2002 that the national authorities in compliance with the national laws organized the elections. Therefore, there are all contents and attributes that define a state as sovereign and democratic while at the same time there is an institution of which the competences are almost unlimited in all spheres of the state authority. However, the OHR institution has neither political nor legal responsibility towards the legal system of the country. This issue will have to be more tackled in future, not only because of the positive results and contribution of the High representative to development of total democratic relations in Bosnia and Herzegovina, his intentions which followed in due time, given the political opposition in implementation of the Decision of the Constitutional Court, and passing of a great number of laws and bylaws, but also because of negative implications that emerged upon some decisions made by the High Representative influencing overall relations in Bosnia and Herzegovina in connection with the Constitution of Bosnia and Herzegovina, legitimately passed laws and democratic elections carried out in the country.

17. Due to war activities in Bosnia and Herzegovina there was drastic displacement of the population bearing with itself the loss of conditions to dispose of natural resources and other material resources, which is contrary to the stipulations of this Covenant. For several years now, Bosnia and Herzegovina authorities, supported by the International community have made efforts to improve the situation, or at least to recover it to the pre-war level. In order to overcome or relatively smooth the problem of disposal of natural and material resources, Bosnia and Herzegovina created with 2002 constitutional modifications a solid legal framework that could protect the right to dispose of the natural resources and create solid base for more secure foreign investments, flow of goods, capital and workforce etc. In that way Bosnia and Herzegovina makes efforts and contributes for faster and more successful approach to the European Union, its regulations and practice related to solution of important issues for operating of the country. This particularly refers to treatment and disposal of natural, material resources and rights of the citizens to dispose, without discrimination on any grounds, of the natural resources such as: water, forests, mines etc. Today this issue is more and more interesting to the citizens of Bosnia and Herzegovina, because of expressed ecological and other problems (opening of new mine pits, construction of new water plants - the rivers of current interest: Drina, Neretva, Vrbas etc), and because in the case they are not satisfied with the decisions made by the relevant authorities they can influence the decision-making on use of the natural resources of the country.

Article 2. Ban on discrimination upon appeals

18. Pursuant to the Article 2 of the Covenant, Bosnia and Herzegovina has ensured by the constitutional and legislative framework that all its citizens and foreign citizens fulfilling the conditions for residence on its territory, without making any difference and discrimination, have the same rights. The Constitution of Bosnia and Herzegovina, Article II, paragraph 4 reads: “The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

In the light of this Article, the legislation of Bosnia and Herzegovina, its two entities and Brčko District of BiH, provides for every person whose rights and freedoms have been offended, to dispose of the right to appeal, even in the cases where the offence was done by the individuals while carrying out their official duties.

However, in actual life, the individuals are not always informed on rights deriving from the Covenant (and Optional Protocol when appropriate) because this document has not been published in official languages of peoples in Bosnia and Herzegovina so the public, especially the persons whose rights are offended on that basis, are neither aware of their rights nor of the cooperation between the state and the UN Committee for Human Rights.

19. In Bosnia and Herzegovina there is no explicit discrimination of its citizens and foreigners. The guarantee is based on the Article 2 of the Covenant, and it is applied to foreigners at the same extent as to the citizens of Bosnia and Herzegovina. The Constitution of Bosnia and Herzegovina and the Law on Movement and Stay of Foreigners and Asylum that was adopted in 2003 regulate this issue. The Article 6 of this Law stipulates that there must not be discrimination towards foreigners on any ground. The foreigner who was granted humanitarian stay, pursuant to the Article 35 of this Law, has right to work and he is granted possibility for education, health and social protection under the same conditions as the citizens of Bosnia and Herzegovina. According to the Bosnia and Herzegovina legislation the foreigners cannot be deprived of life unfoundedly. They must not and they are not exposed to torture or cruel, inhuman or degrading treatment or punishment, and they cannot be held in slavery or captivity status. Pursuant to this Law the foreigner may be deprived of stay if he/she had not met all necessary requirements prescribed by the Law. The foreigner is allowed to lodge an appeal against such decisions. The appeal is lodged with the competent ministry within 15 days from the day of the receipt of the decision. The final decision on expel is made by the competent ministry who had made the decision. The Council of Ministers of BiH may, exceptionally, upon proposition explained by the competent ministry or the competent ministry of internal affairs and while resolving individual cases, make a decision on expel of foreigners from Bosnia and Herzegovina, if it evaluates that the expel is necessary for the public policy sake, or is based on national security reasons, in the sense of the provision of the Article 1, paragraph 2 of the Protocol number 7 of the European Convention on Protection of Human Rights and Fundamental Freedoms. The Council of Ministers had used this right in the case of the so-called Algerian group.

The relevant bylaws are being prepared in order to make the relation to foreigners more correct and founded according to international standards and requirements of the Covenant on Civil and Political Rights and they would arrange in more details the conditions, form and content of the documents needed for approval of stay of foreigners in Bosnia and Herzegovina, as well as other issues important for the stay and movement of foreigners.

Bosnia and Herzegovina offers a special treatment to foreign persons - refugees seeking asylum according to provisions of the Articles 3 - 34 of the 1951 Convention on the Status of Refugees. The foreigners with a refugee status have right to reside on the territory of Bosnia and Herzegovina during validity of the asylum and for this purpose a refugee certificate on residence is issued. The refugee status is, in principle, also granted to a marital partner and minor children, as well as to other members of the immediate family if they live in the same household on the territory of Bosnia and Herzegovina. The foreigner with a recognized status of refugee *de iure* is granted right to work, education, health and social protection, under the same condition as for the citizens of Bosnia and Herzegovina.

Cease of validity of asylum is decided by the basic organizational unit competent for asylum issues from the Article 76 of the Law on Movement and Stay of Foreigners as per official duty, upon the request of the organizational unit of the competent ministry or ministries of internal affairs. This decision cannot be appealed to, but the complaint lodged by the foreigner before the court of jurisdiction will postpone the execution of the decision. It is important to say that, according to current legislative regulations in Bosnia and Herzegovina, a foreigner cannot be expelled nor forcibly moved from the territory of Bosnia and Herzegovina before irrevocability of the decision from the paragraph 1 of the above-mentioned article.

Therefore, foreigners have full right to freedom and personal security in accordance with the legislation of Bosnia and Herzegovina. If they were legally arrested they must be treated in human way respecting their individual inherent dignity. Foreign persons cannot be arrested on the grounds of breach of contractual obligations. They have right to freedom of movement, freedom of choice of residence, freedom of leaving the country. They have equal obligations and rights before the courts and right to equal and just trial before the competent, independent and impartial court, established by law, in cases of any criminal charges or rights and duties at the proceeding. They are protected from unfounded and illegal involvement in their privacy, family, home or correspondence. They have right to freedom of thought, consciousness or religion, and right to freedom of opinion and expression of it. Foreigners have right to peaceful gathering and freedom of association. In cases where foreigners are minority in the meaning of the Article 27 of the Covenant, they must not be deprived of the right to enjoy together with other members of their group their own culture, practice and promote their religion and use their mother tongue, right to marriage etc. The foreigners' children have right to those measures of protection required by their juvenile status.

As per the legislation of Bosnia and Herzegovina the listed rights of foreigners may be limited only in the legal way defined by the Law on Movement and Stay of Aliens and Asylum, namely with the International Covenant on Civil and Political Rights.

The Law on Movement and Stay of Aliens and Asylum entered into force on 14th October 2003 (“Official Gazette of Bosnia and Herzegovina”, number 29/03).

Article 3. Gender equality in Bosnia and Herzegovina

20. Bosnia and Herzegovina has achieved visible results in the period concerned, by undertaking obligations deriving from the Convention on Elimination of All Forms of Discrimination of Women /CEDAW, by succession of 01 September 1993. This is based on the fact that Bosnia and Herzegovina has established and enacted in the post-war period, a comprehensive legislative framework that prevents gender discrimination.

The legal and institutional instruments have been built aiming at implementation of the gender equality. The legal instruments are also the constitutional position of the Convention on Elimination of All Forms of Discrimination of Women, the Law on Gender Equality in Bosnia and Herzegovina, preparation of new family laws, as well as the law on protection from violence in the family. The institutional instruments are the Agency for Gender Equality at the state level. The entities’ Gender Centers within the executive authorities, and parliamentary commissions for gender equality (National and Entities’ Parliaments) within the legislative authorities. In this way the UN Guidelines for implementation and progress in ensuring the equal civil and political rights of women and men are respected.

21. It is important to emphasize that the Constitution of Bosnia and Herzegovina in its Article II which is dedicated to human rights, in the paragraph 4, bans discrimination in regard of recognition, enjoyment and protection of human rights; “without discrimination on any grounds, such as; gender, race, language”. The Constitution of Bosnia and Herzegovina also stipulates the equality of women and men by the provision on ban of discrimination, but it also does it by saying that the European Convention on Protection of Human Rights and Fundamental Freedoms and its Protocols be applied directly in Bosnia and Herzegovina. The Constitution emphasizes that these acts have priority over all other laws.

22. The Law on Gender Equality in Bosnia and Herzegovina directly enables to recognize in an easier way the situations in the practice in which certain persons are put into different positions on the ground of sex, that is they are differently treated. This Law promotes, regulates and protects the gender equality, guarantees to all persons equal possibilities, both in public, and private sphere of life. The Article 2 of the Law reads: “Full equality of treatment for both sexes is guaranteed in all sectors of society, particularly in the fields of education, the economy, employment and labour, social welfare, health care, sport, culture, public life and the media, regardless of marital or family status. Discrimination on the grounds of gender and sexual orientation is prohibited.” Further, the Article 3 of this Law the definition of discrimination is supplied: “For the purposes of this Law, discrimination on the grounds of gender is defined as all juridical or effective, direct or indirect distinction, privilege, exclusion or restriction on the grounds of gender as a result of which the recognition, exercise or enjoyment of a person’s human rights and freedoms in the political, educations, economic, social, cultural, sports, civil and all other domains of public life are denied or curtailed.”

23. The Law on Gender Equality in Bosnia and Herzegovina provides for establishment of the Agency for Gender Equality at the level of Bosnia and Herzegovina, with basic task to prepare the periodical National Action Plan for promoting gender equality, carries out analysis of the laws and other regulations and general acts in order to monitor the implementation of gender equality, and to submit annual reports on implementation of activities on prevention of discrimination on the ground of sex in Bosnia and Herzegovina. The BIH Gender Agency began to work by the end of 2004.

24. By the end of 2000 and 2001 the Governments of both entities founded gender centers as their technical services. Upon initiative by these centers the authorities (legislative and executive) have established institutional instruments dealing with the issues of gender equality at all levels of the authorities organization.

25. In the structure of the legislative authorities of both entities, the parliamentary gender agencies have been formed as the working bodies of the legislative bodies. Those boards and commissions have similar mandate which bind them to monitor in all activities of the parliaments and assemblies the passing of the regulations and discussing materials providing for policy in different fields and proposing measures that will ensure equal approach to women and men in the development process.

It should be emphasized that in many cantons and municipalities there have been formed such organizations as to provide for the equal approach to gender equality in the whole of Bosnia and Herzegovina.

26. In Bosnia and Herzegovina there are obstacles that obstruct and slow down enhancement of the position of women. This is primarily caused by the social and economic problems in the society and their economic position, which is very often harder than the men's one. The choice of profession and education has always been divided between sexes in Bosnia and Herzegovina. In Bosnia and Herzegovina there are no legal obstacles for the woman to become economically independent, for example to open her own company, but there are still not enough incentives nor benefits for doing business although such measures are very popular in the world. One of the fundamental measures for improvement of the women's position and for establishment of conditions in which women can enjoy all their rights and have the same possibilities as men, is to use their full capacity to participate in the political, economic, social and cultural development and to enjoy the same advantages as per contribution, i.e. the integration of gender equality (mainstreaming) in existing policies, programmes and laws. That is how the old-fashioned views and long-lasting prejudices on the role and the position of a woman in the society can be successfully overcome.

Table No. 1 is attached.

27. The international instruments are increasingly used for exchange of experience and organized assistance in resolving practical problems related to ensuring equal rights for men and women. In cooperation with the net of non-governmental organizations OSCE launched the project entitled "Women Can Do That", in which the training was done for the women

candidates on the lists of candidates and women elected in the legislative and executive authorities. The Norwegian government supported the project back in 2001 and it has lasted up to now. By mid 2003 this project involved 2.500 women from entire Bosnia and Herzegovina.

28. The Bosnia and Herzegovina authorities, together with the representatives of the non-governmental sector, have undertaken a range of activities to analyse the existing laws, aiming primarily to provide protection of women and children in accordance with the international standards. Working groups were formed and they consist of experts both in theory and practice from the government and non-government sector who did the analysis of the criminal codes and family code in Bosnia and Herzegovina, and who sent their comments and suggestions to the competent institutions. It is now the usual practice that the gender centers send their comments, opinions and suggestions to the entities' parliamentary working bodies for gender equality, on regulations considered by those bodies, from the point of view of their compliance with the Law on Gender Equality. The working group, jointly formed by the gender centers and the Safe Net Committee (consisting of 34 non-governmental organizations from the entire Bosnia and Herzegovina), has made the text of the Draft law on protection against violence in the family. This law has already been adopted in the Federation of Bosnia and Herzegovina, and in the The Republika Srpska it is in the process of adoption. The new Family Law is also in the parliamentary procedure.

29. The Law on Citizenship of Bosnia and Herzegovina regulates the manner, conditions and procedure for acquisition and withdrawal of the citizenship of Bosnia and Herzegovina. The marital status does not influence acquisition of citizenship, except in cases when citizenship is requested on the base of marriage with a citizen of Bosnia and Herzegovina, where there is no difference made on the grounds of sex. In order to acquire citizenship, it is essential that the applicant, woman or man, fulfil the requirements defined by the law that does not make any difference between women and men, they are equal. Women, married or not, have the same rights as men to acquire, change or keep their citizenship. Marriage to a foreign citizen does not impact the change of citizenship of the woman, except in the cases when a woman wants to take the citizenship of her husband (under conditions prescribed by the law of the country of husband's origin). There is also the possibility of double citizenship, if there are bilateral agreements with the country of the partner's origin (principle of reciprocity).

30. In Bosnia and Herzegovina, wives and husbands take the citizenship of their marital partner, depending on family choice, that is on the choice of the residence place, so that it could be said that the cases of discrimination or jeopardy of the right to choice of citizenship are rare in Bosnia and Herzegovina. The citizenship of mother and father is of equal value and according to the laws of Bosnia and Herzegovina, the choice of the partners is solely considered.

31. The children born from marriage in which parents are citizens of different countries obtain the citizenship on which the parents give their consent, and if it is possible by the law of the country of residence or origin of the partners, the children may have both citizenships. Children can have individual passports and can travel on the passport of any parent. Both parents must give their approval for the travel document of the child and their permission for travelling. If a child is over 14 years, his consent is needed in all mentioned cases.

More information on the child's citizenship was presented in the First Report of Bosnia and Herzegovina to the Committee for Rights of the Child (points 59-61, page 13).

32. According to current constitutional and legal solutions in Bosnia and Herzegovina, women have equal rights and possibilities as men to represent authorities of Bosnia and Herzegovina and to make state international contacts, but due to their traditional position in the society, women still are not enough present during international presentation of the country. For example, out of total of 39 positions at the diplomatic rank - Ministry of Foreign Affairs of BIH has nominated 9 women or 23%. In the class of general consul, out of total y positions, two or 29% are women. At other diplomatic-consular and administrative-technical posts there are 82 women or 31% out of total 261 employees.

33. The Law on Election of Bosnia and Herzegovina stipulates that the election of the members of all authority bodies is effected on the base of universal and equal right to vote through direct and secret voting. According to the same law, each citizen of Bosnia and Herzegovina aged 18 has right to vote and to be elected in the legislative bodies at all authority levels in Bosnia and Herzegovina. It could be concluded from the above- mentioned regulations that women and men have equal rights in participation in the political and public life. The number of women on the candidate lists for legislative bodies at all levels (from municipality to the Parliamentary Assembly of BIH) is defined by the Law on Elections in Bosnia and Herzegovina (Article 419) by which all parties are obliged to candidate at least one third of female candidates. That quota was applied in the election activity in 2000. The data show that women have always been minority sex in the candidacy procedure for elections.

34. The existing data clearly show that the application of the obligatory candidate quota enabled presence of a greater number of women in legislative bodies at the state, entities and Brcko District of BIH level. However, although the candidate quota has enabled the greater presence of women in the legislative bodies, no woman is a president of the parliament neither at the state nor at the entities level, which means that men occupy the highest positions in the legislative authorities.

Figures on results of the elections for the local authorities (municipal authorities), the Assembly of Brcko District and Municipal council of the Mostar Town, held on 2 October 2004 also demonstrate that among the candidates for all mentioned legislative bodies there were 1/3 of women candidates while there were only 14,7% of women among elected counsellors/board members. By analysing the information on holders of the candidate lists per sex, it was found out that only 11.9% of women were the list holders. Within the scope of the considered municipality election results, there have already been initiatives to develop the Election Law in order to determine obligation for the political participants to have at least 1/3 of women - holders of candidate lists when submitting candidate lists for election in the legislative body for one authority level.

Table Nos. 2 and 3 are attached.

35. The situation with the number of women prosecutors is similar. Out of total 127 prosecutors in Bosnia and Herzegovina women make 47, or 37%.

Table 1
Women in Prosecutor's Office, 2000-2002

	Total number	Women		Men	
		No.	%	No.	%
FBIH prosecutors	53	18	34	35	66
RS prosecutors	73	29	38	44	62
BRCKO district prosecutors	1	0	0	1	100
BIH prosecutors	127	47	37	80	63

The reform of the judicial system is under way in the entire Bosnia and Herzegovina, and this will result in decrease of number of courts and prosecutor's offices at local level.

36. Figures on number of women holding public positions within executive authorities at the state and entity level show that there is a very low number of women holding the highest positions within the executive authorities. Not a single woman has been elected a member of the Presidency at the post-war elections, nor a president/vice-president in entities or entity Prime Minister.

Out of 10 members of the Council of Ministers of BIH there is only one woman (10%), out of 15 members of the Government of Federation off Bosnia and Herzegovina two are women (13.3%) and out of 19 members of the Government of the The Republika Srpska only one woman is a minister.

In the state ministries, Brcko District of BIH and entities ministries there are 540 persons at managing positions, out of which 136 women or 25.2%.

In 486 educational institutions of local importance only 85 women are directors or 27%.

Table 2
Participation of women in executive authorities

Participation of women in executive authorities					
	Total No.	Women		Men	
		No.	%	No.	%
BIH presidency	3	0	0	3	100
BIH council of ministers	10	1	10	9	90
FBIH president	2	0	0	2	100
RS president	2	0	0	2	100
FBIH government	15	2	13.3	13	86.7
RS government	19	1	5.3	18	94.7
Canton prime minister	10	0	0	10	100

37. According to the Constitution of Bosnia and Herzegovina, the judicial authority is independent from the executive and legislative authorities. Out of 100 courts existing in Bosnia and Herzegovina, 7 are organized at the state level, entities levels, court of Brcko District of BIH, 93 are organized at local levels. At these courts, out of 934 judges, 452 are women or 48.4%. The higher percentage of women in courts is at local level: 428 or 49.8%, and the greatest is at the Court of First Instance in Brcko District 61% and in the Supreme Court of the federation of Bosnia and Herzegovina where women are represented with 56.3%. There are no women presidents of the court at entities level and in Brcko District of BIH. At local level, out of 93 courts, there are 16 women presidents of courts or 17.2%. It means that men have advantage at appointments for presidents of courts. By the end of 2004, a woman was appointed the president of the Court of Bosnia and Herzegovina, which will have positive impact on future appointments of women to managing positions in judicial system.

38. Although it could be said that Bosnia and Herzegovina has provided enough instruments to implement and ensure human rights, including women's rights, the social practice does not offer reason to be satisfied in this matter. Although the women in Bosnia and Herzegovina make over-half majority of the population (51%), the percentage of their presence in the sphere of labour and social relations (unemployment rate of women is 44%), participation in the political life (14.2%), in political parties (around 18.5%) is far from that number. It is true that the percentage of women employed in education, health and social protection is quite higher (62%).

39. The entities laws on labour the right to employment is equal for women and men, but in the practice it is really a different situation. Employers think twice before they decide to employ a woman saying that they make costs of work higher, as the existing legal framework enabled women to take maternity leave and benefits of leave for care of children. Apart from this discrimination, there is also discrimination on the grounds of age; many vacancy advertisements published in daily newspapers seek female workforce not older than 35 years, with a very frequent note that one of the prerequisites is "attractive looks". It means that women in Bosnia and Herzegovina are often exposed to different sexual harassment while searching for a job. The research conducted by the gender centers of the Federation of Bosnia and Herzegovina and The Republika Srpska, within the project "Gender equality in Bosnia and Herzegovina", with a sample of 600 female participants reveals that sexual harassment, namely abuse, exists in all circles. However, what concerns most is the finding the attitude of female population towards these occurrences. It is indicative that 87.62% of the participants think that they were not exposed to sexual harassment, and if they were 33.33% said it was by the colleagues, and 37.33 by their superiors (bosses).

40. The problem of violence in the family is very present in Bosnia and Herzegovina. Unfortunately, this violence is still a closely guarded secret and it is not talked about. The victims of violence in family are usually women (most often at age between 25 and 35), children and old persons. According to some figures it is considered that the violence is present in every 4th family in Bosnia and Herzegovina.

41. Another expressed problem in Bosnia and Herzegovina is human trafficking. Up to now Bosnia and Herzegovina has only been a transit country and the country of reception of women

victims of trafficking, but some figures say that it has become a country of origin of women trafficking victims. Although there are no credible data in Bosnia and Herzegovina on the number of women trafficking victims, the UNHCR report from June 2003 (Human trafficking in Bosnia and Herzegovina) states that there were 70 criminal charges lodged in 2002 against 90 persons, out of which 76 foreign female citizens were sentenced from 9 to 30 days and there were criminal charges against 9 persons with domestic citizenship, with imprisonment in total duration of 253 days. Domestic citizens were punished because they gave rooms or they mediated in prostitution, namely human trafficking for prostitution. Although the domestic legislation has come into force (Criminal Code of Bosnia and Herzegovina, Law on movement and stay of foreigners and asylum, National Trafficking Action Plan was adopted for Bosnia and Herzegovina) the fundamental obstacle is still with the coupling between police and criminal circles, which works in favour of increase of human trafficking.

Table 3
Figures on participation of women in legal authorities
at all levels in Bosnia and Herzegovina

	Total No. judges/male and female	Women		Men	
		No.	%	No.	%
Constitutional court of BiH	9	2	22.2	7	77.8
Court of BiH - appellation department	7	1	16.6	6	83.3
Constitutional court of FbiH	9	2	22.2	7	77.8
Constitutional court of RS	7	1	16.6	6	83.3
Supreme court of FbiH	16	9	56.3	7	43.7
Supreme court of RS	16	1	6.25	15	93.7
Court of first instance of BRCKO district	13	8	61.5	5	38.5
Cantonal and municipality courts in FBIH	587	323	55.0	264	45.0
District courts and courts of first instance in RS	272	105	38.6	167	61.4

Article 4. Deviation from the Covenant provisions

42. If we consider the provisions of the Covenant that stipulate limitation of the rights guaranteed by this document, in case there is threat for the nation, that is the state, the derogation of some of the Covenant provisions was present during the war in Bosnia and Herzegovina in the period from 1992 to 1995. It was time of proclamation of immediate war danger when fundamental civil and political rights were endangered, beginning with the right to life, to imperilment of all other conditions necessary for every person to live normal life and work.

Moreover, the human rights, civil and political, economic, social and cultural have still been breached since the signing of the Dayton Peace Agreement for Bosnia and Herzegovina.

The civil rights that have been violated are the right to non-discrimination on the grounds of ethnical, religious, political, cultural affiliation, right to freedom of movement, right to access to court and equality before the court, right to trial within reasonable time, right to return, right to education without discrimination (existence of ethnical schools - two schools under one roof), right to work and employment without discrimination, social rights and so on.

More information and answers to this Article are supplied by the Articles 4 and 5 of the Initial report on implementation of the International Covenant on Economic, Social and cultural rights in Bosnia and Herzegovina, Articles 2(2) and Article 3 of the Report of Bosnia and Herzegovina related to the Convention against Torture and Articles 13(2), 14(3), 15(2) and Article 37 which is elaborated in more details in the report on Rights of Child in Bosnia and Herzegovina. All reports mentioned above have been submitted to competent UN committees.

Article 5. Ban on deviation from the Covenant provisions

43. Since the Article 5 of the Covenant should prevent any wrong interpretation of any of the Articles of the Covenant that might produce breach and limitation of rights and freedoms to the extent that is higher than the one allowed by the document, it could be said that there have been violations of some provisions of the Covenant in Bosnia and Herzegovina, due to complex situation. This primarily concerns violation of human rights of the citizens because the state is not able to provide the minimum life conditions. Beside war conditions when the basic human right to life could not be guaranteed, other fundamental human rights were derogated, rights to food, water, home and peaceful enjoyment of home, right of non-participation in direct or indirect war conflicts etc. Apart from the above statements, it should be pointed out that after disintegration of the former common country (SFRY) and creation of new countries that were immediately recognized, due to war activities there was no necessary legal frame established that could guarantee the fundamental human rights.

Although the situation has significantly improved since signing of the Dayton Peace Agreement (December 1995), there are still occurrences of breach of human rights in Bosnia and Herzegovina, which should be condemned by the competent authorities but is not done. The example are the elementary human rights - right to home and peaceful enjoyment of home, right to work, because a great number of displaced citizens of Bosnia and Herzegovina have not still been provided even the minimum, elementary right given by this Covenant. Although the individual issues were resolved, the social status stays unrealised and unresolved, the same is with employment, education and conditions to exercise fundamental cultural and national rights. Within the scope of this problem a very important issue is the status of the Serbs refugees from the Republic of Croatia who came to The Republika Srpska, and whose fundamental human rights have not been resolved by the Republic of Croatia, such as the right to return, home, property and peaceful enjoyment of property, personal security etc. This presents a great problem at this current political moment for Bosnia and Herzegovina, moreover because it is not capable to provide for this category of refugees the rights belonging to them under the International Convention from 1951. So, it could be concluded that the fundamental human and democratic rights of this refugee population from the Republic of Croatia are drastically imperilled. They return their property in the Republic of Croatia with great difficulties and in Bosnia and Herzegovina (and The Republika Srpska where the most of them stay now) there are no conditions, nor possibilities to resolve their status, and exercise their rights in full capacity.

44. Beside above mentioned, citizens of Bosnia and Herzegovina have a problem in the field of pension-disability insurance and implementation of fundamental right to receive pensions as per the place of origin of acquisition and benefits payment; the military apartments - due to specific character of the former JNA and participation of representatives of all peoples in it and treatment of this category of citizens in regard to repossession of the right to occupy the apartment they had before the war, old foreign currency savings etc.

Article 6. Right to life inseparable from the human individual

45. The right to life is a fundamental human right that cannot be derogated not even during the state of emergency that threatens the life of citizens of the Covenant Member States. Right to life means protection of human rights by other persons and by the state itself, namely its authorities. Right to life by other persons is protected by the criminal codes, and by the state through approach towards the death penalty that was abolished in Bosnia and Herzegovina. The Constitution and the laws of Bosnia and Herzegovina state that no one can be deprived of life arbitrarily. The Constitution of Bosnia and Herzegovina, in the Article 2. (a) emphasizes that all persons on the territory of Bosnia and Herzegovina enjoy human rights and the rights number one is "right to life".

The legislation of Bosnia and Herzegovina and its entities decidedly forbids the war propaganda or call to violence.

The state undertakes special measures to prevent occurrences of depriving of life and it also prevents the depriving of life done by the government authorities. That is why the current laws strictly control and limit the circumstances in which an individual may be deprived of life.

46. The attention of the state is also focused on the procedures in connection with investigations in the process of search for the missing persons, and concerning the circumstances that might involve violation of the right to life. According to accessible, but still not fully verified figures, it is considered that around 30.000 were missing during the war on the territory of Bosnia and Herzegovina. That pointed out the importance of adoption of the Law on the Missing Persons which enables improvement of the process of search for missing persons through a precise definition of a missing person and obligation of establishment of the central data base on missing persons from/in Bosnia and Herzegovina, exercise of social and other rights of the members of the missing persons' families, as well as other issues related to search for missing persons from Bosnia and Herzegovina and in Bosnia and Herzegovina. The basic goal of adoption of this Law is elimination of discrimination in social, economic and cultural life and creating provisions conformed to norms and practice of European countries, EU members. Constitutional base for adoption of this Law is founded on the Articles II and IV of the Constitution of Bosnia and Herzegovina and Articles III and V of the General Framework Peace Agreement for Bosnia and Herzegovina, Annex VII. The Article 2 of the Law offers the definition of what is meant by words the missing person: "A missing person is the person of whom the family has no news, and/or is reported by reliable information as a missing person because of the armed conflict that occurred on the territory of the former SFRY". It is important that this Law defines the period for which the search is to be done, and that is the period

from 30 April 1991 to 14 February 1996. The right of the families of the missing persons is to come to know the destiny of the missing members of the families and relatives, their residence/habitual residence or, if they are dead, circumstances, cause of death and place of burial, if such a place is known, and to get their remains. Due to lack of good will of a number of competent authorities in both entities, the process of search for missing persons is hard and long. In order to overcome it the Article 4 of the Law on the Missing Persons emphasizes responsibility and need of more direct cooperation of competent authorities in the entire Bosnia and Herzegovina and neighbouring countries, in which the disappearance of the missing person might have occurred. Since the International Commission for Missing Persons (ICMP) has founded in Bosnia and Herzegovina the Institute for missing persons, the Presidency of Bosnia and Herzegovina accepted the Agreement on co-foundation of the Institute for missing persons of Bosnia and Herzegovina. The international organizations play an important role in this process owing to their experience and mandate, and their objective is also to continue to keep international monitoring over this process. The Article 11 of this Law ensures the principle of social provision for the families of the missing persons. That principle, i.e. the amount of compensation, without discrimination, is adjusted to social position of families and to average paid salary.

The status of the missing person is ended with the day of identification. The right to financial compensation finishes upon completion of the regular education or marriage of a dependent child, adopted child, stepchild, brother or sister.

All citizens of Bosnia and Herzegovina have right to exercise their rights assigned to them by the law, without discrimination. The Article 26 of the Law on Missing Persons is also granted to foreign citizens whose members were missing on the territory of Bosnia and Herzegovina, under condition that their countries had made a bilateral agreement on that with Bosnia and Herzegovina.

47. Though the Member States are not obliged to fully abolish death penalty, except for the “most serious crimes”, and with recommendation that the abolition is welcome, in Bosnia and Herzegovina the death penalty was abolished and that fact is improvement for enjoyment of the right to life.

The Criminal Code of Bosnia and Herzegovina that was adopted on 1 May 2003, stipulates that for the most serious premeditated criminal acts there can be pronounced imprisonment from twenty to forty years. The juvenile imprisonment can be pronounced under conditions prescribed in the Chapter X of this Law. This sentence is specific in its nature, purpose and duration of execution, especially as it concerns long-term arrest.

Article 7. Ban on use of inhuman punishment

48. In order to protect dignity, physical and mental integrity of an individual, Bosnia and Herzegovina, through its legislation, offers to its citizens the protective measures needed against acts forbidden by the Article 7, whether they be committed by the people who act within their service, out of the official activity or as a private person.

49. Bosnia and Herzegovina is the signatory of the European Convention on Protection from torture and Inhuman or Degrading Acts or Punishment. It was signed and ratified on 12 July 2002, and came into force on 01 November 2002. It is very important that this Convention introduces the system of control *in situ* and supports the dialogue between the official statesmen and multidisciplinary international committee. In this way the Convention gives the traits to common and innovative engagement of the Member States of the Council of Europe and provides for the higher standards in the custody places.

50. By signing of this Convention Bosnia and Herzegovina has overtaken obligation, among others, to enable access to information on places where the arrested are situated, as well as ensuring other information related to the arrested (conditions in which they serve sentence and the treatment of the arrested).

51. Given the standards of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment, known as the “Committee for Prevention of Torture” or shortly CPT, entities authorities and employees of the penitentiary institutions were informed on its competence and activities, at the special seminars organized by the Ministry for Human Rights and Refugees of BIH and the Office of the Council of Europe seated in Sarajevo, at the end of March 2003.

52. The activity of CPT consists of periodical visits to Bosnia and Herzegovina, and if needed, the “ad hoc” visits can be organized too. The CPT delegations have unlimited access to custody premises and right to move inside such places, without restrictions, and based on their visits they give recommendations contained in the report, in this case, Bosnia and Herzegovina. That is the starting point for opening a permanent dialogue with the Member State.

53. Pursuant to above mentioned, the European Committee carried out the monitoring in Bosnia and Herzegovina two times, in 2003 and 2004 and presented their observations to the competent authorities, gave their recommendations, comments and requests for feedback information.

54. The Report of the authorities of Bosnia and Herzegovina made upon request of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment states that the State Border Service is the only police force at the state level. It operates as an administrative unit of the Ministry of Security of Bosnia and Herzegovina that was established in January 2003. The reorganization of police is under way at levels of entities and Brcko District of BIH, with aim to make the police operate more efficiently and jointly on the whole territory of Bosnia and Herzegovina.

55. The legal framework regulating the police custody was established by the new Criminal Code and the Criminal Procedure Code of Bosnia and Herzegovina that entered into force in March 2003. The Law on Police Officers of Bosnia and Herzegovina, Chapter III - certain police powers, its Article 10, beside the duties and powers given by the Criminal Procedure Code, and in order to prevent criminal acts, gives the following police powers: check and control of identity of persons and things; conducting conversation, bringing in, search for persons and things, resort to force and processing of personal data and keeping records.

56. As for the legal framework for police custody in the criminal codes of both entities, adopted during 2003, there were modifications of the previously regulated custody status and its duration. The international standards were incorporated in the new laws. So, the new solution abolished the police custody, the function of the magistrate is fully transferred onto the prosecutor. It means that the police authority, pursuant to the Law, may arrest a person if there is well founded suspicion that the person had committed the act and if there is any reason anticipated for custody, but the police officer is obligated to bring in such a person, without delay and not later than within 24 hours, to the prosecutor. It was the magistrate previously. Upon bringing in the person the police officer must inform the prosecutor on reasons and time of arrest. Resort to force at bringing in is allowed in accordance with the Law. The brought person must be briefed on his/her rights, and in the case he/she were not brought in to the prosecutor in due time, he/she will be freed.

57. According to the new Criminal Procedure Code there is not any more the institution of the magistrate. It is the prosecutor who conducts investigation, hears the suspect and witnesses. A separate article provides for the rights of the arrested persons. It stipulates that the arrested person must be immediately advised in his mother tongue or the language that he/she understands on the reasons of the arrest and at the same time he/she should be briefed before the first interrogation that he/she is not obliged to give statement, that he/she has right to take a defense attorney of his choice, and the right that his family, consular official of his/her citizenship country or other person determined by himself/herself, be informed on his arrest. According to the current Law, the arrested person will be assigned a defense attorney upon his/her request, if he/she cannot afford to pay for the costs of defense due to his/her poor material state.

58. The resort to force (means of coercion) by the policemen during official operations (arresting etc.) must be proportional to the danger threatening in actual situations and any encroachment of the intensity of resort to force presents illegitimate act. In cases where the illegal treatment by the policeman is confirmed, the proceeding is instituted - disciplinary or criminal.

Table No. 4 is attached.

59. The custody registry (records on arrests) that is maintained, contains the information on the arrested person, data on the official who arrested the person, information on time of arrest, rights of the arrested etc. The registry must also contain information if the arrested person asked for a defense counsel, if he/she asked for a medical examination. Notification of the family, note on kind and number of injuries sustained during arrest which is issued in written form immediately upon the arrest.

60. The Law provides that, which was not the case before, in the working area and other police premises there cannot be any objects, without justified reason to be there, which are not used for conduct of everyday work tasks (sticks, non-police batons, cold and firearms, or other objects that can be put into connection with the degradation, torture or inhuman treatment of the persons who might be present, on any grounds possible, in the official police premises.

61. The police headquarters in both entities and Brcko District of BIH, by CPT recommendations, conduct education and training of the personnel of all ranks, with focus to make capability of interpersonal communication one of the main factors in the process of recruitment of police officers. The police academies have that important role as they plan the training in theory and practice through curriculum that contain the guidelines of the European Convention on Protection of Human Rights and Fundamental Freedoms, as well as on protection from torture, inhuman or degrading treatment and punishment.

62. The premises for accommodation of the arrested in the majority of competent institutions-ministries of internal affairs on the whole territory of Bosnia and Herzegovina (both entities and Brcko District of BIH) are in good condition and correspond to standards in this sector. At the places where this is not the case, corresponding measures are undertaken to rehabilitate and repair the bad premises, in order to provide the adequate room in accordance with the financial capacities. After the controls conducted by the CPT some places started to remove negative things. The painting was done, replacement of beds, and measures were undertaken to ensure higher hygienic conditions. Following CPT comments different items were removed from some premises and stored in special premises dedicated to deposit storage.

63. Normatively, and in practice, there is an attitude in the houses of correction of strict punishing of all physical and mental molestation and mistreatment of the prisoners. In connection to this, the violence action strategy is being constructed among the prisoners themselves and action against self-mutilators, which is the permanent concern of the prison administration.

64. According to existing legislative on the entire territory of Bosnia and Herzegovina all prisoners, especially minors, are treated disciplinary in compliance with the prescribed procedure. Self-mutilation is not treated in the practice as a disciplinary offence, which will be normatively regulated in coming modifications of the law and accompanying regulations.

Table No. 5 is attached.

The figures show that the number of the disciplinary offences of the convicted persons is high with trend of growing increasingly from year to year, considering the rise of the number of the convicted who were serving their sentences.

65. The most frequent disciplinary sentence is sending to solitary confinement, and it represent 50.7% of total sentences pronounced.

Sending to the solitary confinement is pronounced only for the most serious disciplinary offences, and the convicted person cannot be sent to serve this sentence before the doctor's written opinion on the state of health has not been obtained. This disciplinary sentence cannot go on in continuity longer than 30 days, and it cannot last longer than 6 months in a year. The doctor visits the convicted in the individual cell every day, counsellor at least 2 times a week and the institution manager once a week.

The disciplinary sentence of solitary confinement must be terminated if it says in the doctor's written opinion that the stay in the individual cell endangers the health of the convicted person (Article 173, paragraph 2, the Law on Service for Criminal and Offence Sanction, 'ZIKPS' /local acronym/).

The most frequent disciplinary offences are: misuse of privilege (being late than 24 hours, consumption of spirits, non-return to institution), mutual fight, aggressive behaviour, use of forbidden things etc.

66. In the period covered by the report, four convicts' protests (strikes) took place in the Houses of Correction in RS: in the House of Correction Foca in 1998, in which participated about 80 convicts, and in the House of Correction Banja Luka, in which participated about 70 convicts. In 1998, the strikers protested mainly by refusing to eat and to conduct their labour obligations; their demands were to grant a partial amnesty for all convicts. The strike was stopped after the talk with the Ministry of Justice and his promise that their demands would be proceeded to the authorized institutions. No disciplinary actions were taken against the strike organizers in the House of Correction in Foča, while the strike organizers in the House of Correction in Banja Luka were transferred to other institutions of correction in The Republika Srpska (5 convicts). The Law on Amnesty was passed in 1998 and published in the "Official Gazette of RS", no. 40, from December 30, 1998.

The strike in 2000 in the House of Correction in Foča, in which participated about 95 convicts was governed by the same demands. The strikers protested by locking themselves up in the loft and coming out onto the roof of the building. The strike was ended peacefully, after the talks with the representatives of the Ministry of Justice in BIH and their promise that the convicts' requests would be directed to the authorized institutions. Four convicts were transferred to other institutions of correction in the The Republika Srpska, due to their destructive behaviour before and during the strike.

95 Convicts came on strike in the House of Correction in Foča in 2001, with the same demands and the same organization. In comparison with earlier demands, some of them were more radical, so the strike organizers were warned about the possible consequences in case of riots during the conversation with the Minister of Justice. The strike was ended without using force or instituting disciplinary proceedings.

On June 2, 1999, in the House of Correction Banja Luka, at the Investigation Department, three arrested prisoners blocked themselves up in their rooms and set the mattress and bedding on fire. They gave up on protest 50 minutes later because of the lack of oxygen. One guard was lightly injured while putting out the fire. No means of force were taken against the arrested. The reason for that, according to their statements, was their discontent with the unsatisfactory work of the Court Bodies.

In other institutions of correction in The Republika Srpska, there were no organized protests, apart from some individual solidarity with the strikers' demands.

The representatives of UN, IPTF and OHR were well informed about all these events and they actively participated in their disclosure.

67. Hunger strikes and self-mutilation are, beside the organized protests, the most frequent ways of expressing discontent in the houses of correction with the decisions made by the institutions and authorities. There were 53 convicts and 137 arrested who refused to take the food in the reporting period. These hunger strikes went on for 3 to 15 days, and in 5 cases some

medical measures had to be taken since the strikers' lives and health, according to the medical indications, were highly threatened. The commonest way of self-mutilation was cutting the veins and swallowing hard objects. But quick medical intervention brought about avoiding grave consequences. In the period followed by this report, 59 of such cases were recorded.

68. In the same period, three convicts and two arrested committed suicide. All five of them hang themselves. The competent court-police commission carried out the full investigation for all these cases.

The most frequent reasons for their refusing to take food and self-mutilation are the discontent caused by placing them under arrest, passing the sentences, depriving them of privileges, stalling the criminal proceedings and so on.

69. The law specifies the possibility of using special measures when situation could not otherwise be solved, for those convicts who are dangerous for their tendency to escape from prison, violent behaviour towards other people and objects, suicide or self-mutilation, or disturbing discipline and order. These measures include:

- Intensified control which implies more frequent observation and control of the convicts by day and night; and it is carried out in such a way as not to derange daily activities of the convicts;
- Confiscating and temporary detaining of the things that are nevertheless not allowed; this lasts shortly and is implied rarely;
- Placing the convicts in a specialized room with no dangerous objects in; this can last for no longer than 48 hours, and is carried out not before the doctor gives his positive opinion about the convict's readiness to stay in such a room;
- Placing the convicts in the section with the maximum security and intensive proceeding programme, this measure can be implemented only in the closed houses of correction;
- Handcuffing, fastening their feet as well if needed, this as a particular measure can last no longer than 12 hours during 24 hours;
- Isolation, and as a special measure it is rarely implemented and can be authorized by the minister only upon the suggestion of the governor of the institution, it can carry on for maximum 6 months;
- Infectious diseases and drugs testing, this measure is carried out in case there is a doubt of existence of catching diseases and drugs using, when the urine and blood are taken to analysis.

Apart from using special measures, the means of coercion can be used as well, when necessary to prevent:

- Escape;

- Physical assault on employees, convicts or others;
- Harming oneself, or others;
- Causing material damage on purpose;
- In cases when is needed to prevent or master any active or passive resistance of the convicts.

70. The law clearly specifies all the means of coercion that can be used on convicts and lists them in the following order: ways of placing someone under arrest and ways of defending, handcuffing, physical strength, rubber baton, water cannons, medicines and firearms. Using the means of coercion, the officials are to use those means of force which do not jeopardize the life and health of a person, successfully fight the resistance and are adequate for the danger.

In the Federation of Bosnia and Herzegovina there were a number of disciplinary actions taken against the convicts in the period of the strikes and protests in the houses of correction. Three serious convicts' protest took place in the period from 1996 to 30/06/2003, when convicts demanded to have their sentences reduced by being pardoned or granted an amnesty, and in 09/03/1996, 120 convicts went on a hunger strike. The safety was greatly broken in September of 1996, after the media broadcasted the Decision on Pardon, ratified by The Presidency of Bosnia and Herzegovina, which proclaimed that convicts' sentences can only be reduced for 1/3 from the remaining sentence pronounced not the initial sentence pronounced, as the convicts demanded. A great material damage was caused on the occasion as a consequence of the highly destructive behaviour of the convicts.

200 convicts gathered on the sports ground in House of Correction in Zenica in the protest that happened in 28/08/2001. They demanded pardon and amnesty and more paroles; then from the institution they demanded fewer disciplinary measures, better life conditions, more freedom of movement outside the institution, and greater convicts' employment rate.

The greatest riots ever occurred on 11/02/2003 when 240 convicts came out onto the roof of the institution and with a great degree of demolishing and destructive behaviour demanded the pardon and amnesty. Also, a great material damage was made then, assessed at 300.000 KM.

It is important to mention that after this riot, which was ended peacefully, 56 convicts were segregated, 26 of them were transferred to other houses of correction, while 30 of them were placed in the disciplinary section, where 24 convicts, out of them 30, were punished to solitary confinement up to 90 days, approved by the Federal Ministry of Justice.

There was use of force, but with no injured convicts.

Rights of the suspect and the accused

71. A person under interrogation, according to the legislature of Bosnia and Herzegovina, its entities and of Brčko District of BIH, is not to give any statements or answers to the officials' questions, apart from giving the information about his/her identity, while the officials of the

Police Bodies are due to read them their rights. The suspects, under the suspicion of committing a criminal act, have the rights to hire the attorney, as well as the rights to have the attorney present during their interrogation. If the suspects are under arrest, they have the rights to request the appointment with their attorney, if they themselves are not able to afford the defence depending on their personal estate standard. They have the rights to choose the attorney among the lawyers and to inform the Court about it. The officials are bound to read the suspects their rights from the previous paragraphs. The suspects must be informed about the charges and what they are based upon, as soon as their first interrogation starts. The suspects must be allowed to plead about the evidence and facts they are charged with, and to present the evidence and facts that are believed to be in their favour. The extortion of confession or any other statement from the suspects, the arrested, or any other person involved in the proceeding, is forbidden.

72. The District Military Courts were founded during the wartime at the level of the warring parties. Apart from the military who were prosecuted in such courts, also prosecuted were the civilians charged with criminal acts, usually assigned to the military, then the civilians charged with the criminal acts against the property, and with the criminal acts against the official and other responsibilities- if the subject of the act was a part of the army device or arms, or ammunition or explosive which served for the defence. Also, the prisoners of war were brought to these courts for trial, to be prosecuted for the criminal acts against humanity and international law. The appeals on decisions made by these courts were taken into consideration by the instance of the judiciary organization of the time.

The Dayton Peace Agreement brought about the end of the wartime, and consequently, the need of the existence of the military courts, which were then dissolved due to the legal regulations. This agreement equally regulated that military courts therefore direct their dossiers to the higher courts, cantonal courts now; and regional courts of jurisdiction, now municipality courts, depending on the level of the sentence pronounced for a criminal act; while the judges and representatives of the district military courts continued their practice in the higher entity courts.

73. According to the valid legislature, juveniles under 18 years of age cannot be placed in the same cells and sleeping-rooms together with adults and older individuals, so even younger individuals of legal age (up to 23 years of age) are separated from others.

A special proceeding is provided within the Criminal Procedure Code. It affected the minors who broke the law but were still not 21 years old at the time legal proceedings were instituted.

According to the report of the Federation of Bosnia and Herzegovina, on juvenile delinquency and the structure of the under age criminals, there is an obvious increase in the number of children committing crimes. The largest number of criminal offences belongs to the crimes against the personal property (thefts, serious offences, crimes, and so on). In addition, one case of a murder committed by a minor was recorded in 1997.

Analysing the statistics of the crimes committed by the person in the age category up to 18, in The Republika Srpska report for the period from 1995 to 1998, there is a tendency of the crime to decline, only to start showing the increase in 1998 again. The Republika Srpska in

its report presents the rough figures for the period from 1995 to 1998: in general crime, the crimes committed by minors are on an average 3% (listed by percentage separately for years: 1995-4,63%; 1996-2,48%; 1997-1,98%; 1998-2,92%).

The Federation of Bosnia and Herzegovina presents the figures for the period from 1992 to 1997: all together 4 702 crimes committed by minors are reported; 1 343 in 1997, or 14,7% in percentage belongs to the crimes committed by minors.

Table Nos. 6 and 7 are attached.

In the House of Correction Foča the custody measures are not used from November 2000.

Table No. 8 is attached.

In the District Prison in Trebinje the convicts started serving their sentence from 01\01\2003.

Table No. 9 is attached.

The previous table shows a growing tendency in the number of convicts who served their time in the houses of correction in the Republika Srpska in the period comprised by the report. However, beside the increasing number of convicts, the current number of rooms satisfy the current needs, since the table shows the total number of the convicts who were placed in the houses of correction in the Republika Srpska.

The most frequent ways of using the means of coercion were physical strength for 29, and rubber baton for 33 times. They were used mostly to prevent the fights between the convicts themselves, to prevent the active resistance to the officers, the attacks on the guards, the self-mutilation, and for taking the convicts in from the outdoor labour fields in drunken states and so on.

The water cannons, medicines and firearms were not used.

The law particularly specifies the conditions that need to be fulfilled for the officials to use the firearms, so it is stated that it needs to be:

- An anti-legal simultaneous attack, which jeopardizes the lives of the convicts, employees and others found in the institution;
- For preventing convicts' escapes from the institution, when trying to climb over the outer wall, and it is impossible to prevent the escape by any other means;
- For preventing the convicts' escape when making an arrest, but only if it is the person sentenced to 5 years or more, or it is the arrested against whom the criminal proceeding has been started and for what the sentence prescribed is ten or more years of imprisonment.

The institution is bound to inform the ministry in charge about every use of force, they decide whether that use of means of coercion is justified or not.

Out of 77 cases when the means of coercion were used, 71 were justified, while 6 of them were not. Certain disciplinary measures were taken against 6 officials, who lost their jobs, for violating their authorities and a fine and a suspended sentence were passed regulated by the law.

While using the means of coercion neither convicts nor officers were seriously hurt. They were mostly lightly injured.

The use of the means of coercion on the convicts and the arrested is one of the most delicate work fields in the houses of correction. Therefore, the guards, by law, are to inform the governor at once about the use of means of coercion, while the governors need to inform the authorized ministry within 24 hours about the use of physical force, rubber baton, water cannons, medicines and firearms (The Law on Execution of Criminal and Offence Sanctions of BIH, Article 182).

Table No. 10 is attached.

74. In the entire territory of Bosnia and Herzegovina it has been secured that prisoners are never placed in segregation cells. Efforts are made to provide at least 4 m² of space per prisoner and decent hygienic conditions, but not without any difficulties because of a low budget. Therefore, with help from DFID and "ATOS CONSULTING", the project "The development of the acceptable strategies in justice sector" is realized. The project comprises the annual and medium-term strategic plans (for 2004, and from 2005 to 2007), with one aim only -to use, effectively, the available and quite limited budget and to direct it towards solving the key material problems in the institutions of correction.

75. There are still few obstacles which need handling, and they are: understaffing- lack of security guards, lack of medical staff; lack of the programmes of a higher quality and then the problem of treatment and classification of the convicts in the closed institutions of correction, and that implies greater number of convicts than are institution capacities, and a great shortage of the treatments for the special groups of convicts - drug addicts, dangerous convicts, mentally ill convicts, juvenile convicts, and similarly.

76. The living conditions of the prisoners, and the patients in psychiatry asylums are very difficult, as are the conditions of the personnel that take care of them. Moreover, the conditions are only getting worse instead of going better. The sleeping and living rooms have no TVs in them or any decorations; in the closed sections of the department the hygienic conditions are very bad, sleeping rooms are overcrowded, and workshops for occupational therapy have equally bad conditions. There is a serious want of the qualified medical staff, and the lack of the alarm system for the forensic psychiatry, and so on.

77. The right to appeal for a bad treatment-banned by the article 7 of the Covenant, is recognized by the legislature of Bosnia and Herzegovina. The appeals need to be processed immediately and assessed objectively by the competent bodies, so that it would be possible to act legally and in time and to present all the statistics figures on the number of appeals and

explanations of their treatment. The Law on the Court of Bosnia and Herzegovina in its article 37 states that the prosecutor or the convict can make an appeal to the Appellate Department in these cases:

- Important violations of the criminal proceeding;
- Incorrect law implementations;
- Incorrect and incomplete fact establishment.

The prosecutor can plead the appeal in favour of the accused, but as well in his/her harm. 15 days is the time limit within which it is possible to appeal on a decision, starting from the day when the decision is handed over to the party. The accused can refuse the rights to appeal only after the decision is handed over to them. The prosecutor can refuse the rights to appeal against the interests of the accused from the moment of pronouncing the decision, to the moment of the end of time-limit to make an appeal, and can in any moment drop the appeal already announced until the passing decision of the appellate department.

78. There is no record of human medical and scientific experiments testing in Bosnia and Herzegovina, without their free consent. The satisfactory regulations have not been passed yet about this issue in Bosnia and Herzegovina.

Article 8

79. Even though the slavery is abolished and human trafficking banned in all countries in the world by the decrees, related to the article 8. and article 4., paragraphs 1. and 2, of the International Covenant on Human and Political Rights; there are still indicators of the constant struggle of the member countries of this Covenant to fight and ban any form of the slavery which people in modern world can be exposed to. The Constitution of Bosnia and Herzegovina regulates this issue of preventing any form of human trafficking by specifying human rights and essential freedoms. Related to this, Bosnia and Herzegovina ratified the Protocol for preventing, stopping and punishing human trafficking, especially women and children trafficking, which is the amendment to the UN Convention from 2000 on trans-national organized crime. Criminal Code of Bosnia and Herzegovina, in the context of the chapter XVII, regulates the criminal acts against humanity and values protected by the international law (article 186.), where it is stated: "Anyone participating in recruiting, transporting, sheltering persons, by threatening them, or using force, or other forms of coercion, kidnapping or deception, or delusion, misuse of power or others' weaknesses, or accepting pays or privileges, in order to obtain the person's consent for the purposes of exploitation, will be punished with the sentence from one year to ten years of imprisonment."

80. Women trafficking and prostitution in Bosnia and Herzegovina began to expand only in the after-war period and especially increased at the beginning of 1999, when the ministries of the internal affairs for the first time officially presented the figures on women and children trafficking. They showed that those women, victims of trafficking, came mostly from Moldavia, Ukraine, Romania, and Bulgaria. They come mainly as waitresses, dancers and then, in certain cases are forced into prostitution, trapped in the circle of a debtor's slavery, body and sexual

abuse and maltreatment. Typical places for the prostitution are nightclubs, bars, striptease clubs and so on. It is important to stress out that according to the official evidence, in the period from 1999 to 2000, the local police, international police and SFOR were involved in the women trafficking.

81. In Palermo, in December 2000, Bosnia and Herzegovina signed the UN Convention on organized trans-national crime with two supplementary Protocols. One of the Protocols on preventing, stopping and punishing human trafficking, especially women and children trafficking, is directed towards fighting this form of crime, then securing complete victim protection.

82. After Palermo, in December 2001, Bosnia and Herzegovina adopted the Human Trafficking Action Plan at the state level; in whose creation apart from the authorized ministries of Bosnia and Herzegovina, entity ministries, and Brčko District government, actively participated NGOs from the "Ring" Network, and the representatives of the international organizations (UN Mission, UNOHCHR, UNICEF, OSCE, IOM, OXFAM). This plan was created on the basis of already mentioned Protocol and international conventions that deal with this problem, and all in the context of the constitutional and legal system of Bosnia and Herzegovina. Although the Action plan includes the prevention, raising consciousness, legal reform, training, and help with the victims' integration, the priority whatsoever is the activity to secure help for the women and children victims of trafficking and to bring criminal charges against the traffickers. For the implementation of this plan the following principles should be respected: do not treat the victims of trafficking as someone who violated the law; secure the help which is not conditioned with the cooperation in the criminal proceedings; secure all necessary measures, including legislation ones, in order to provide safety for the victims of trafficking, them as victims and potential witnesses, up to the moment of their repatriation; involve women in the process of deciding in order to stop the institutions from passing further procedures on behalf of victims without their consent; inform the victims on all necessary information about the police investigations and court procedures; provide them with safe place of living, health care, legal help and other necessary protections. It is quite important that Action plan emphasises that need for close cooperation between all the subjects in charge of its implementation, and that need for the organized training of the State Border Service, Police, Prosecutor's Office, Courts, State Officials and so on.

83. In March 2000 the Council of Ministers of BIH, made a decision on founding the State commission for implementing the Action Plan, and in accordance with this decision formed the human trafficking and illegal emigration rapid forces. The Council of Ministers and the government of the entities and Brčko District of BIH signed the Memorandum of understanding as the legal framework for securing the implementation of the Action plan. Also, there are rapid forces with the same tasks that act inside Brčko District of BIH and the entity ministries of internal affairs, as well as STOP teams together with the representatives of the ministry of internal affairs and IPTF. For giving adequate protection to the victims of trafficking the Protocol was signed on cooperation with NGOs and the Temporary instruction was adopted which states the obligation of the authorized bodies (police, above all), that persons, who are believed to be victims of the trafficking, are placed in shelters run by NGOs, where they will be given adequate support: legal help, medical care and so on. On account of its implementation these documents were, in September 2003, handed over to the authorized state and entity bodies for use.

84. During June 2000, four units of the State Border Service (further referred to as SBS) of Bosnia and Herzegovina were formed. SBS started working on the protection of the state border and international airports, and on the control of the people and goods crossing. At the moment, this service has the complete control of the state border and international airport. The special emphasis in the work of SBS is on the prevention of illegal immigrations and human trafficking. It is necessary to stress out that besides the extensive measures, taken to organize and qualify this service; there are still efforts that need to be made so the SBS could face the problems without difficulties. The members of the SBS are not educated for the implementation of the laws passed recently, for even now is evident the lack of the exchange of the intelligence information with other institutions in the country authorized for implementations of the laws in subject. In addition, the employees' structure statistics in SBS at the moment show that women are understaffed.

Taking that into account, SBS is working on the implementation of the Education Plan for its officers, especially in order to implement efficiently the Criminal Code of Bosnia and Herzegovina, Criminal Procedure Code of Bosnia and Herzegovina and the Law on Movement and Stay of Foreigners and Asylum. There is a busy and continual work in establishing the mechanism of the intelligence and operative data exchange, which is the primary goal of the newly formed Ministry of Security of BIH. Added to this, the internal organization of the SBS has undergone re-examination in order to establish the balance among the employees on the sex basis, work effectiveness and completion of the tasks set.

85. According to the report of the state coordinator for prevention of the trafficking and illegal immigration in Bosnia and Herzegovina, the State group for trafficking and illegal immigration prevention is formed, made of the experts from different ministries in Bosnia and Herzegovina. In the entire territory of Bosnia and Herzegovina the liaison officers were appointed: 16 contact persons from the police departments fighting human trafficking from both entities, who represent the bond between the police offices and the field stations, cantonal ministries of the internal affairs, public security centers and the state coordinator for human trafficking and illegal immigration prevention in Bosnia and Herzegovina.

86. The first deportation of the illegal immigrants took place in November 2003. Thirteen women who lived illegally in Bosnia and Herzegovina voluntarily left the country.

In cooperation with NGOs and along with the state coordinator data, some information on human trafficking have been collected; they refer mostly to the number, age and origin country of the persons who have been given help and resort in the shelters of NGOs. Four NGOs offered their figures on victims of trafficking in the period from 2000 to 2003 – 270 victims of trafficking stayed in their shelters, 3 children among them.

The International Organization for Migration, in whose mandate was the protection and accommodation of the victims of trafficking, offered the following figures given in report from 14/05/2002 which refer to one-year period only:

Table 4
Figures on women victims of human trafficking

Country of origin	No. of persons	Average age
Moldavia	206	22.1
Romania	179	21.3
Ukraine	50	25.2
Byelorussia	5	27.5
Russia	8	20.4
SRY	8	23.7
Kazakhstan	2	20.5
Hungary	1	16.7

According to the figures presented, 442 persons altogether were deported to their countries of origin.

87. According to the data available from the authorized state bodies, there is an increase in the number of charges laid against the persons who committed criminal acts of human trafficking; and the number of ongoing investigations, and sentences pronounced. For instance, up to now in Brčko District of BIH, 25 persons are sentenced to 13 years or more of imprisonment along with fines in total amount of 34,000.00 KM. In these sentences it is evident the presence of 79 foreign citizens. These figures are relevant for the period from 1997. Similar actions are ongoing on the territory of the Federation of Bosnia and Herzegovina and The Republika Srpska, but there are no statistics figures.

88. According to the operative data of the SBS for the period 2000-2002, the data processing was done for 132 women who illegally came to Bosnia and Herzegovina, or their illegal stay in the country was established afterwards. In 21 case it has been established that they used fake documents to cross the border with Bosnia and Herzegovina; in 30 cases SBS instituted the offence proceedings; criminal proceedings against 9 women; and in 16 cases women, the subjects of this service processing, declared to be the victims of trafficking.

The entire survey of the illegal state border crossings, in the period 2000-2003 which are suspected to be related to human trafficking, is attached.

Tables Nos. 11, 12 and 13 are attached.

89. According to the data of the Human Rights Field Operation in Bosnia and Herzegovina in the period of two years (2000 and 2001) the local police in Bosnia and Herzegovina with the assistance of IPTF STOP team, organized the standard raids in nightclubs. In those actions over 500 foreign citizens were discovered in nightclubs and returned to their homes by IOM; but according to the recent findings a certain number of repatriated girls, after some time, was again found living in Bosnia and Herzegovina.

90. Since the children trafficking is present in the whole territory of South-Eastern Europe, in Bosnia and Herzegovina too, where Bosnia and Herzegovina is the destination country, but the

origin country as well, all reports, information, and suggestions of the Stability Pact show that this problem needs to be tackled without any hesitation. Because of that, at the level of Bosnia and Herzegovina the Subgroup for children trafficking and protection of the children victims of trafficking is formed within the State action plan and then the Activity Plan for 2004-2005 is adopted. Some particular actions were planned for realization of the four key activities: legal measures for this issue; strengthening the cooperative activity; the protection of the victims, shelter houses and prevention; education and rising consciousness programmes.

91. During the year 2001 and 2002, two ad hoc activities named “Mikro” and “Miraž” were organized in Bosnia and Herzegovina. The High Commissioner for Human Rights Office marked these activities as successful, which is mentioned in a report of the named authority.

92. As far as the forced or obligatory labour is concerned, it needs to be emphasised that the ban does not exclude hard labour as the punishment measure, only under the condition that its use is based upon the sentence passed by the court in jurisdiction. The forced and obligatory labours, as the punishment measures, are not included in Bosnia and Herzegovina and its entities legislature.

93. In accordance with the Law on Labour in Bosnia and Herzegovina, its entities and Brčko District institutions regulations, a person who is under age 18 and is in a good form can build up working relationship. Lower age limit for building up a working relation can't be under age of 15.

Also, in accordance with valid regulations, hard manual labour, labour below earth or water, or labour that could effect in constant and higher risk on health and life of the worker under age of 18, considering his psychophysical capabilities, is prohibited to the same one. In accordance with Bosnia and Herzegovina legislation, working after hours can't be appointed to the worker under age of 18. Also, the worker under age of 18 employed in industry, civil engineering or in transportation is not allowed to work at night in between 10 p.m. and 6 a.m. next day. This could only be allowed in especially hard circumstances when it is demanded for the sake of general interest and in strictly determined conditions fixed for other workers by the Law on Protection at Work.

Night work is not allowed for pregnant women, starting from the sixth month of pregnancy, to mothers who have children under age of 1, and for the workers under age of 18. As for the other rights, laws determine special measures of women protection. The law determines a special protection during the pregnancy and also it is prohibited to employ them on jobs harmful to their health and pregnancy. In accordance with the Law on Labour in Bosnia and Herzegovina Institutions, the woman who starts with work before her maternity leave expiry has the right, besides the daybreak, to take an extra time of absence in duration of 60 minutes for breast-feeding of child. Also, during her pregnancy that is breast-feeding of child, woman can be placed to other jobs if it's in her state of health interest determined by authorized doctor. In accordance with the collective agreement and regulations on work, woman has the right to absence from work having her salary compensation in case that her employer is not in ability to place her on another job. Woman's salary reduction cannot be a consequence of temporary schedule. Employer can relocate woman to another working place only with her literal agreement.

94. When court weighs out and sentences topmost six months imprisonment penalty, it can, at the same time, replace the sentenced penalty with work for common good in free, with the defendant's agreement (article 43 of Bosnia and Herzegovina Criminal Code). In that case the fact that the execution of imprisonment penalty wouldn't be necessary for making the point of punishing is considered, but at the same time probation wouldn't be adequate for gaining general point of Criminal Code's sanctions. Work for common good in free is being determined in duration proportional with sentenced imprisonment penalty in at least ten to topmost sixty working days. Term of work for common good in free execution can't be shorter than one month or longer than one year. The court considers the sentenced imprisonment penalty that is supposed to be replaced as well as the offender's abilities in way of his personal situation and employment weighing out the duration of work for common good in free as well as the term of the execution of the same. According to regulations in article 47 of the preceding Code the replacement of imprisonment penalty with the work for common good in free could be applied also in cases in which a fine is being replaced with imprisonment penalty. The Bosnia and Herzegovina Ministry of Justice exerts placement to work for common good in free, regarding the kind and working place, considering at the same time the offender's abilities and knowledge.

Therefore, both Bosnia and Herzegovina entities and Brčko District legislations allow business units, plants and building sites to be organized inside and out of correction institutions in which sentenced persons serve their sentence. The Law also allows employment of sentenced persons out of the correction institutions, namely companies and other organizations, with possibility that a person sentenced to less than one year imprisonment penalty can do the same activities as in time of the crime that he committed, if that crime isn't related with those activities. The Bosnia and Herzegovina Ministry of Justice passes the approval on that issue. Office hours for the sentenced persons are equalized with those of civil employees. In accordance with the regulations based on the Law, sentenced persons have the right on daily, weekly vacation and holiday. Sentenced person has the right to take a holiday in duration of 18 working days. In rule, the vacation is being used inside the facility, but in case that this right is being used with benefit, than the vacation can be used outside the correction facility. Sentenced persons have the insurance in cases of accident at work and professional disease under the same conditions as civil employees. Sentenced persons get compensation for their work. The compensation is being determined in percentage of at least 20% of the lowest labour price in entities with the fact that the after hours work and night work decrease the same in accordance with the regulations in labour relationships. Sentenced persons have at their disposal 70% of attained compensation in order to settle their own needs, and the rest of it (30%) is left as saving that they get after serving a sentence. If the sentenced person doesn't work, and it is not his fault, and has no saved money, then the institution provides him the money for essential needs. Also, if the sentenced person gets ill at work, or that is related with the work at correction facility then he has the right to get the compensation for that time that he wasn't able to work.

All working engaged persons are insured in cases of disability and physical injures caused by accident at work or professional disease, except for the cases of self-mutilation.

95. Bosnia and Herzegovina and its entities legislation have regulated manner and conditions of obligatory military service term. The law relevant law contains regulations on civil service of military term for those who don't do military service in virtue of conscience objection.

Article 9. Freedom and security of individual

96. The article 2 of Bosnia and Herzegovina Constitution says that the State and both of its entities are obliged to provide the highest level of internationally recognized human rights and fundamental freedoms. As the Annex 6 of General Framework Agreement for Peace in Bosnia and Herzegovina determines, the Commission for Human Rights in Bosnia and Herzegovina was formed for that cause. Rights of the suspect and the accused persons are worked out in the article 34 of the Law on the Court of Bosnia and Herzegovina in accordance with the rights to freedom and personal security. The same Law stipulates that no person can be unfoundedly arrested or detained, that is, that no one can be deprived of his freedom except for the reason and in accordance with the procedure determined by the Law. The suspect, for whom there is a founded suspicion that he had committed a criminal act, has the right to have a lawyer and also has the right to have the lawyer present during the interrogation carried out by authorized person. If deprived of his freedom, the suspect has the right to demand for a lawyer to be assigned to him in case that his property state is not adequate enough for him to afford the costs of defence. The suspect has the right to choose his lawyer among the attorneys by himself and to inform the Court on that.

Every authorized person of the internal affairs bodies is due to read to the suspect the rights from the paragraphs 2 and 3 of the above-mentioned article. The accused person must be informed already during the first interrogation of the act for which he was accused and on what grounds. The accused person has to be enabled at once to express himself on all the facts and evidences that accuse him and to lay out all the facts and evidences useful for his defence. It is prohibited to extort confessions or any other statements from the suspect or accused person or any other person involved in the procedure. That means that the Court cannot base its decision on evidences obtained by breaking the human rights and freedoms determined by the Constitution and international agreements, or on evidences obtained by breaking the above-mentioned law and other laws.

Two time terms requiring response are important: first one is the time term inside which the arrested person has to be led in front of a judge, and the second one is time term in which the same person can be detained while waiting for the trial.

In cases of illegal arresting or detaining the victims have to have the attainable right to compensation.

97. The Criminal Code of Bosnia and Herzegovina sets the norm for criminal act of unlawful arrest by official or responsible person in Bosnia and Herzegovina institutions in its article 147. It says: "Who unlawfully imprisons another person, keeps him imprisoned or otherwise restricts his freedom of movement, shall be punished by a fine or imprisonment for a term not exceeding three years. If the unlawful deprivation of freedom lasted for more than thirty days, or if the manner of the execution was cruel, or if such a treatment of the person who was illegally deprived of freedom caused grave impairment of his health, or if some other serious consequences occurred, the perpetrator shall be punished by imprisonment for a term between two and eight years. If the person who has been illegally deprived of freedom lost his life as a result of the deprivation, the perpetrator shall be punished by imprisonment for a term not less than five years."

Article 10. Obligation to human treatment

98. The Criminal Code of Bosnia and Herzegovina (article 190) says: “An official or another person who, acting upon the instigation or with the explicit or implicit consent of a public official person, inflicts on a person physical or mental pain or severe physical or mental suffering for such purposes as to obtain from him or a third person information or a confession, or to punish him for a criminal offence he or a third person has perpetrated or is suspected of having perpetrated or who intimidates or coerces him for any other reason based on discrimination of any kind, shall be punished by imprisonment for a term between one and ten years.”

Arrested and convicted persons must be treated with humanity and with respect of personal dignity of individual (Article 2, paragraph 3, in The Constitution of Bosnia and Herzegovina - enumeration of rights). It is prohibited to extort a confession or any other statement from the suspect, accused or any other person involved in the procedure (Article 10 of the Criminal Procedure Code of Bosnia and Herzegovina). The paragraph 2 of the same Article of the Code reads: “The Court cannot base its decision on evidences obtained by breaking the human rights and freedoms determined by the Constitution and international agreements ratified by Bosnia and Herzegovina, or on evidences obtained by essential breach of this code”. Therefore, the Court cannot base its decision on evidences obtained by the evidences mentioned in paragraph 2 of the Article 10 of the Criminal Procedure Code of Bosnia and Herzegovina.

99. Criminal act of torture is incorporated in the special part of Bosnia and Herzegovina Criminal Code that deals with criminal acts against humanity and values protected by the international law. Paragraph 1 of the Article 172 of the Criminal Code of Bosnia and Herzegovina says: “Whoever, as part of a widespread or systematic attack directed against any civilian population, with knowledge of such an attack perpetrates the act of torture or other inhuman acts of similar character intentionally causing great suffering, or serious injury to body or to physical or mental health, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.” In the sense of the paragraph 1 of this Article the concept of torture means deliberate demonstration of strong physical or emotional pain or suffering of the person held by accused person or under his custody, excluding the pain or suffering that are consequences of exclusively execution of legal sanctions.

100. The Criminal Code of Bosnia and Herzegovina determines the term of the official person by defining that it is a person elected or appointed to legislative, executive and judicial office within Bosnia and Herzegovina and other governmental and administrative institutions or services which perform particular administrative, expert and other duties, within the rights and liabilities of the authority who has founded them; where their responsibility is being determined in accordance with the e UN Standards of minimum rules of prisoners treatment, the Code of behaviour of the official persons who implement the law, and the Principles of medicine ethics relevant for the prison doctors. On the basis of the UN Convention against torture the penalty legislation of the both entities and Brčko District has been reconciled with minimum differences, and the coordination of norms is actively being worked on for the entire Bosnia and Herzegovina. For example, the Criminal Code of the Federation of Bosnia and Herzegovina doesn't determine criminal prosecutions for specified criminal acts in official duty, so it is necessary to work on revision and amendment of criminal legislation, which would oblige public prosecutor to prosecute the offender of criminal acts in official duty. Also, the Criminal Code of

Brčko District has not incorporated special definition of criminal act of torture as it is determined by the article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Penalties and Procedures.

It is important to point out that the death penalty was anticipated for the most serious forms of criminal acts on the Republika Srpska territory but it was abolished after the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina in 1995. It was the act that came as obligation from European Convention on Protection of Human Rights and Fundamental Freedoms, that is Protocol no.6 as its essential part. The life-imprisonment was brought in instead of the death penalty.

101. Sentenced persons are due to observe law provisions, rules on house order in institutions and institutes where they serve their sentence. The order and discipline are maintained in order to realise the purpose of penalty and education of sentenced persons and also for the safety of institutions and cohabitation of the sentenced people who serve their sentence. That purpose can't be achieved only in conditions and by measures of maintaining the order and discipline. The rules, duties and conveniences of sentenced persons are therefore determined in cases when the discipline can't be provided, as it is provided in the above-mentioned documents.

102. The Code provides that sentenced persons can be found disciplinary guilty for discipline violations, which can be light or serious ones. For light disciplinary violations sentenced persons can have disciplinary penalties: reprimand and public reprimand, and for the serious disciplinary violations there is a fine and sending a person to a solitary confinement for up to 20 days.

The most often discipline violations done by sentenced persons are: misuse of privileges, taking spirits, fighting between prisoners, racket, violent behaviour and use of prohibited things.

Hunger strikes and self-mutilation are, among occasional rebellions, the most often forms in which the sentenced and detained persons in correction institutions express their discontent.

The discipline commission appointed by the governor of the institution runs a discipline procedure and sentences penalties. The commission passes first level decision. The sentenced person has the right to appeal on that decision to the governor of the institution who can pass second level decision. This one is final and administrative dispute can't be directed against the same. The most often measure of discipline penalty is directing to solitary confinement and it is represented with over 50% of total penalties sentenced.

Table No. 5 is attached.

More information are cited on pages 106-113 of the Initial Bosnia and Herzegovina Report by the article 19 of the Convention against torture and other cruel, inhuman or degrading penalties and procedures.

103. In accordance with legal regulations, it is determined for detained persons to be separated from accused ones, also females from males, and that juveniles serve their sentence separated from the adults. Even though there are endeavours in practice to act in accordance with the legal regulations, the same are very often not respected because of the lack of material-technical

facilities and conditions. Custody units in both entities correction institutions have rooms (cells) for execution of detaining measures for female persons and also have female staff employed. In cases of sentenced women, common regulations are implemented to regulate the question of their absence from work for pregnancy, childbirth and maternity.

104. Execution of sentence for juvenile offenders sentenced to correction facility is forseen to be in special sections in both entities correction institutions (Banja Luka and Sarajevo). Upon pronouncement of the sentence the duration of the same isn't specified. The court subsequently makes a decision on the sentence duration and it can be determined for a period from one to five years. Correction measures for male and female persons are separately executed in these sections.

105. Speaking of the education of sentenced persons, the law regulates obligatory primary education for juvenile persons who don't have their primary school education completed, and if necessary, a high school, which is determined by the action programme. Besides that, in cooperation with schools placed in institution place of seat the institutions organize special forms of professional qualification for sentenced persons. After completing primary and professional education it shouldn't be written in certificates that the same was gained in this sort of institutions. Besides this, sentenced persons are allowed to attend higher-level educational institutions or university as outdoor students. Library with books and magazines is available for sentenced persons who want to gain expert education as well as possibility of watching television or listening to a radio programmes. Naturally, nowadays the libraries should be enhanced with new prints of education, technical and religious literature.

106. Sentenced persons have free contacts with their family and social environment. They consist of visits of relatives and friends, sending and receiving letters, receiving packages and telephone calls. Keeping and using cell-phones is forbidden.

Sentenced person can appeal on irregularities in having his rights realized to the governor of the institution or official person who controls realization of rights of the sentenced persons at the institution.

107. The delegation of the European Commission for prevention of torture and inhuman and degradation treatment and punishment (CPT) visited Bosnia and Herzegovina in period from 27/04 to 09/05/2003. The delegation visited a number of prisons and psychiatric hospitals. According to its preliminary observations it is noticed, after the interviews with persons mentioned in the text of the statement, that the police officers have treated, in most of the cases, the arrested persons in a correct way. However, in the statements after the sentenced persons hearings, the delegation noticed that there were cases of physical maltreatment by prison officers. That refers to a uniformed police and crime inspectors. In certain investigation prisons the interviewed medical staff affirmed that there was a certain number of persons received in their institutions who were maltreated after being held at the police station. The injuries that are coherent with their allegations confirm this fact.

108. The best possible guarantee against maltreatment entails strict criteria of selection of police officers that will be employed and providing for adequate professional training. Other efficient tool in prevention of indecent behaviour is based on careful examination of any relevant information, and it concerns maltreatment noticed by any competent body, no matter if that information is or is not in a form of formal appeal.

Article 11. Fulfilment of contractual commitments

109. Considering that the Article 11 of the Covenant says that deprivation of someone's freedom can only take place after the breaking of criminal, or extraordinary, civil law and not as a consequence of someone's inability to fulfil a contract obligation, the criminal legislation in Bosnia and Herzegovina on a state level, and both of its entities and Brčko District does not anticipate imprisonment penalty for the cases of inability to fulfil contract obligation. Bosnia and Herzegovina legislation understands that the purpose of this article is to provide attitude and practice to insure that poverty and lack of finances cannot be excuse for imprisonment. It cannot be allowed, even indirectly, that a person who is not able to fulfil his/her contractual commitments gets imprisoned. Bosnia and Herzegovina legislation, in cases of incompleteness of contractual commitments or delay with its fulfilment, gives the right to a creditor to demand for compensation of the damage he has suffered for that and also makes a person who owes liable to compensate the caused damage. Otherwise, this field - contract making, compensations for damages and responsibility connected with it, is elaborated and defined by the Law on Obligation Relations.

Article 12. Freedom of movement and choice of the place of residence

1. Habitual residence and residence

110. Article 1, paragraph 4 of the Bosnia and Herzegovina Constitution provides total freedom of moving across entire Bosnia and Herzegovina. The entities have no right to disturb movement of persons, goods, services and capital in entire Bosnia and Herzegovina territory. Neither of entities can place any control on borders between entities.

111. Habitual residence and residence of Bosnia and Herzegovina citizens is determined by the Law on Habitual Residence and Residence. All regulations of this law are equal for all citizens. Not one regulation of this law may be interpreted in way of limiting citizens of rights to free choice of habitual residence or residence.

112. Habitual residence is municipality or district in which a citizen settles in intention to live there permanently.

113. Residence is municipality or district in which a citizen settles with intention to live there temporarily.

114. Residence address is considered to be the name of the street and number of the house or flat in the place of the citizen's habitual residence or residence.

115. A part of refugee and displaced citizens are covered with this Law. These citizens have their status acknowledged in accordance with suitable legal documents.

116. A person itself or authorized legal representative who is registering or gives notice of withdrawal exerts registering and noticing of withdrawal. A parent, trustee or custody organ exerts registering and gives notices of withdrawal instead of juvenile persons.

The procedure can't last more than fifteen days from the day when the request for registering residence had been submitted to the notice of withdrawal of previous residence and to registration of new residence. Competent body is due to issue a certificate immediately to the citizen that would serve him as evidence that the person has registered as the Bosnia and Herzegovina Law on Habitual Residence and Residence provides.

117. The Law on managing and maintaining of central information records regulates the maintenance and keeping of the central database through electronic processing of information on: Bosnia and Herzegovina citizen's habitual residence, personal identification number (JMB), passports, identification cards, visas and stay permits, vehicle registration, criminal record.

118. The Law determines purpose of making records for each of cited categories. It also defines the bodies authorized to exert technical processing of information (collecting, registering and filing, and using and deleting of information). It determines contents of files in each record, and very significant, it determines the procedure and conditions to transform information from cited records. Only public Bosnia and Herzegovina bodies prescribed by the law can have access to this information and under specified conditions.

119. The systems for recording citizens' residence, personal identity number, passports and identification cards were established in 2004. It is planned that other records determined by this law will be established during the year 2005.

The Head Office for Implementation of the CIPS Project (Citizen Information Protection System) organized as special and independent operational organization part of the Bosnia and Herzegovina Ministry of Civil Affairs manages the said records.

120. One of the fundamental rights whose realization is precondition to regular function of any democratic society is the protection of citizen's personal information in sense of protecting his privacy.

UN Universal Declaration on Human Rights, as well as the European Convention for Protection of Human Rights and Fundamental Freedoms and its protocols provide the fundamental standards of privacy protection, that are directly implemented in Bosnia and Herzegovina and have the priority over all other laws.

The development of information and communication technologies enabled new way of collecting, processing and transfer of personal information. This dictates providing the best possible level of privacy protection and protection of other personal rights related to collecting of personal information in computer databases.

In July 2004 Bosnia and Herzegovina ratified the European Council Convention on protection of persons relating to the automatic processing of personal information and revisions and supplements of the same Convention (dated June 15, 1999) and Additional protocol to Convention (dated November 8, 2001).

121. The regulations of the Bosnia and Herzegovina Constitution and other laws that guarantee the protection of human rights in Bosnia and Herzegovina have already been quoted.

In November 2001 the Bosnia and Herzegovina Parliament Assembly passed the Law on Protection of Personal Information because the relevant regulations of the Bosnia and Herzegovina Constitution do not provide total protection of privacy in sense of automatic processing of the personal information.

It should be pointed out that the protection of personal information is novelty in Bosnia and Herzegovina legal system.

The purpose of the enactment of this law was to provide the respect of human rights and fundamental freedoms on entire territory of Bosnia and Herzegovina for all persons, no matter their citizenship or residence. This was specially related to right to privacy in sense of processing personal information related to them.

122. The Commission for protection of the information was founded in accordance with the Law and for the purpose of protection of information, keeping a track on access to personal information and their transfer.

The Commission for the Protection of the Information is the only institutional frame for protection of human rights in process of processing personal information, as well as their usage by public bodies in Bosnia and Herzegovina.

The Commission's main task is to supervise the implementation of the Law on Protection of Personal Information and other laws on processing information, and also to review appeals submitted to it and to submit an annual report to Bosnia and Herzegovina Parliament Assembly about its work.

123. The Commission consists of 5 members that cannot be elected representatives or act on any political function. The Council of Ministers of Bosnia and Herzegovina appoints the members of the Commission.

The Council of Ministers of Bosnia and Herzegovina appointed the members of the Commission for the Protection of the Information in November 2002, and after that the Commission started with its work.

2. Travel documents

124. The Bosnia and Herzegovina Law on Travel Documents and bylaws based on this law determine all issues as well as the procedure of issuing travel documents for Bosnia and Herzegovina citizens.

Travel documents of Bosnia and Herzegovina citizen are: Passport, Diplomatic Passport, Service Passport, Group Passport and Travel Certificate and marine, that is shipping booklet.

125. The bodies determined by law: competent entities bodies, Bosnia and Herzegovina Ministry of Civil Affairs, Bosnia and Herzegovina diplomatic and consular offices abroad and the Bosnia and Herzegovina Ministry of Foreign Affairs issue travel documents.

Request for issuing travel document should be submitted in given form.

Competent body is due to deal with the request within the time limits provided by the Law (30 that is 60 days, and 48 hours for extraordinary and urgent cases determined by the Law).

126. Request for issuing travel document can be denied only because of the reasons determined by the Law. Persons whose request for issuing travel document has been denied have the right to appeal to the competent body.

127. The cited law specifically determines the cases in which the travel document can be withdrawn from its owner. The competent body that issued the travel document gives a decision of its withdrawal. The Law provides that a person whose travel document was withdrawn has the right to appeal to competent body.

128. Since January 2004 issuing of the travel documents in Bosnia and Herzegovina has been done through the CIPS project. Until the end of 2004, at Bosnia and Herzegovina level, there have been 1.433.554 travel documents issued.

3. Conditions for admission of foreigners onto the country territory

129. The Law on Movement and Stay of Foreigners and Asylum in its Article 1 says that this Law determines conditions and procedure of foreigners entry and stay in Bosnia and Herzegovina, the reasons for rejection of entry and stay, reasons for cancellation of stay and for expulsion of foreigner from the territory of Bosnia and Herzegovina, the procedure of submission of the request for asylum, permission of asylum and cessation of asylum in Bosnia and Herzegovina, responsibilities of the government bodies in implementation of this law as well as other issues related to asylum, stay and movement of foreigners in Bosnia and Herzegovina.

The Article 6 of this Law says that any kind of discrimination of foreigners, on any basis is prohibited. Also the foreigners are due to respect the constitutional order and to respect the regulations and other decisions of Bosnia and Herzegovina state bodies as well as the ones in entities and Brčko District.

130. Foreigners can cross the Bosnia and Herzegovina border only at the border posts open for international traffic or at places destined for circulation between two states, unless it is determined otherwise by an agreement between Bosnia and Herzegovina and neighbouring countries. When entering Bosnia and Herzegovina the foreigner is subject to a control by an official person. It is foreigner's duty to answer correctly and completely to all questions and submit requested documentation on official person's demand when he enters or exits Bosnia and Herzegovina.

131. The foreigner has to fulfil the following conditions to enter in Bosnia and Herzegovina: to have a valid travel document, to have a valid entry visa, to have means for entry, stay and exit from country, including the means for health protection, to have entry visa for neighbouring countries through which he travels, that he is not under measures of deportation or banned entry to Bosnia and Herzegovina, that his presence does not represent threat to security of the country.

(a) Temporary residence

132. A temporary residence can be approved in the following reasons: marriage with the Bosnia and Herzegovina citizen, connecting family, education, scientific-research and artistic work, work on the basis of issued work permit, for business reasons, for cause of treatment or humanitarian reasons. Temporary residence approval can be issued for period of one year, or for the period to foreigner's passport expiry, in case that the passport expires in period less than one year. Temporary residence for humanitarian reasons is approved for period of three months. Temporary residence on the basis of work cannot be approved for the foreigner who has entered in Bosnia and Herzegovina as a tourist.

(b) Permanent residence

133. Permanent residence is approved under the following conditions: that the person lives continuously in Bosnia and Herzegovina on the basis of the approval for temporary residence at least five years before the submission of the request for the approval of permanent residence, that he disposes with means required to support himself for living including those for health protection, to have a health certificate not older than three months before submission of the request where it is noted that he does not have any disease of high risk for environment, namely that he is capable to work.

(c) Asylum

134. Asylum is approved to a foreigner who is out of his country of citizenship origin and who can not or is in fear to ask for the protection of that country and is in a justified fear of being haunted because of his race, religion, nationality, being in some society group or his political views. Also it is approved to a foreigner if he does not have citizenship and is out of the country where he had regular residence and because of the said circumstances cannot or is in fear to return to that country. Asylum can be denied to a foreigner whose refugee status is recognized in another country.

The foreigner submits request for asylum to the competent Bosnia and Herzegovina Ministry of Security organizational unit, or to those of entities and Brčko District Ministries of Internal Affairs. The Ministry issues a receipt to applicant that he submitted request for asylum and the same is being considered as an approval for staying till passing a decision in effect of his request.

According to article 75 of the Law sanctions for illegal entry or approach to country will not be used against the asylum seeker who comes directly from the territory where his life or freedom was endangered but only under condition that he denounces himself without delay to the bodies mentioned in article 74, paragraph 1 of this Law and gives valid reasons for illegal entry or presence. The public is excluded in the issues of asylum and all information related to this procedure is considered as confidential.

The Ministry provides suitable conditions for admission of the foreigners who request for asylum, especially in domain of accommodation, nutrition, health protection, and education. A foreigner with the status of refugee has the right to stay on Bosnia and Herzegovina territory in

period when the asylum is valid and for that purpose he gets an issued approval for refugee residence. Travel document with at least two-year expiry period with possibility of its extension is issued to a foreigner with the status of a refugee.

135. During the stay on Bosnia and Herzegovina territory the foreigners have to possess the adequate documents to prove and confirm their identity and the right to enter and stay in Bosnia and Herzegovina, and to show the same to a competent body.

4. Status of refugees and displaced persons

136. Modern and harmonious conception for solving the refugee and displaced persons status cannot be realized without consensus. This problem is an integral part of Economic and Social Development of Bosnia and Herzegovina Strategy and it can not be realized without the support of International Community.

From the beginning of the war in Bosnia and Herzegovina in April 1992 till signing the General Framework Agreement for Peace in Bosnia and Herzegovina, approximately 2.2 millions of people, that makes approximately 50% of pre-war domicile population, were moved from their pre-war homes. Approximately 1.2 million of that number have asked for a refugee protection in more than 100 countries all around the world. It should be pointed out that the then Federative Republic of Yugoslavia (now Serbia and Montenegro) and the Republic of Croatia accepted almost 40% of the refugees from Bosnia and Herzegovina, while Germany and Austria gave their protection for the highest number of refugees from Bosnia and Herzegovina in comparison to other countries out of the region. These four countries have accepted almost 80% of all persons that left Bosnia and Herzegovina as refugees. Also it should be pointed out that in Bosnia and Herzegovina approximately a million of persons were displaced, almost the third of this number within their domicile municipalities, as a consequence of the war activities from 1992 to 1995. Also, we point out that a great number of refugees after the return from abroad did not return to their previous residences, replacing the status of the refugee with the status of a displaced person. First this refers to persons who came back to Bosnia and Herzegovina under pressure, and also to a great number of those who came back to Bosnia and Herzegovina after the termination of the hospitality in countries that accepted them. For example, 60-65% of returnees from Germany were relocated in this way.

137. The return of refugees and displaced persons to Bosnia and Herzegovina has started right after the signing of the Dayton Peace Agreement. Since the signing of the agreement till 30/09/2004 a total of 1.002.668 returns to Bosnia and Herzegovina, of which 440.486 refugees and 562.182 displaced persons, has been registered. 729.372 persons returned to territory of Bosnia and Herzegovina Federation, 251.914 to territory of the Republika Srpska, and 21.382 to Brčko District.

138. Nearly half a million of persons who left Bosnia and Herzegovina during the period from 1992 to 1995 and are registered as refugees from Bosnia and Herzegovina have been living in approximately 40 countries world-wide nine years after the signing of the Dayton Peace Agreement. Out of that number less than 100.000 persons still have not got their permanent solution, which means that they have not resolved their status with citizenship or permanent residence permit, asylum, working-legal status or any other way in countries that accepted them.

It is necessary to point out the fact that, according to a refugees list made at the end of 2000, more than 60.000 displaced persons in Bosnia and Herzegovina have the status of so called special needs. Within that number there were 32.952 chronically ill persons, 23.537 physically disabled persons (more than 1000 persons are blind) and 3.347 mentally disabled persons and also there were 9.357 families with only one parent.

139. There were no official indices on interest for return for period after the year 2000. However, there are realistic facts that the interest for return has been by far larger at the end of 2004 than that expressed in 2000. Intensification of implementation of property laws is the reason for this. The percentage of the restoration has risen from 21% rate dated on 31/12/2000 to 84% rate dated on 30/06/2003. Estimations are that the implementation of the property laws till the mid 2004 was realized in approximately 99%. That brought to a situation where the temporary users of else's property decide more and more to return to their pre-war homes. It showed out that the aim of complete implementation of the property laws till the end of 2003 was realistic and that it represents one of the highest accomplishments in the post-war period. Information on so-called minority returns is encouraging. The information on number of returns to Bosnia and Herzegovina till June 30 of 2003 indicate this.

140. According to the latest official indices (updated on 30/09/2004) there are 1.002.668 persons, of which 440.486 refugees and 562.182 displaced persons, who returned to Bosnia and Herzegovina.

Out of this number total of 729.372 persons, of which 386.701 refugees and 342.671 displaced persons, returned to territory of Bosnia and Herzegovina Federation.

The number of 251.914 persons, of which 51.821 refugees and 200.093 displaced persons, returned to territory of The Republika Srpska.

The number of 21.382 persons, of which 1.964 refugees and 19.418 displaced persons, returned to Brčko District.

141. Detailed review of realized returns on territory of Bosnia and Herzegovina, classified by age, national structure of returnees, entities and categories, during period from signing of the Dayton Peace Agreement to 30/09/2004 is presented in table and chart in attached part of the Report.

Tables No. 14 and graph No. 1 are attached.

142. Relatively slow return from abroad is conditioned by the better living standard and integration of our people in countries that accepted them. The significant passage of time during which the basic preconditions for physically safe return in Bosnia and Herzegovina were created conditioned that refugees and displaced persons often tried to locally integrate in places of their temporary residence.

It should be pointed out that of above given number of returns the total of 445.735 of so-called minority returns, of which 267.622 in Bosnia and Herzegovina Federation, 156.731 in The Republika Srpska and 21.382 in Brčko District, were realized till 31/08/2004.

Table number 15 is attached.

143. At the beginning of 2003 the Ministry of Human Rights and Refugees of BIH found out that it is still necessary to renew approximately 50.000 residential units for the needs of priority returns within the implementation of property regulations. According to International Managing Group (IMG) standards for minimum housing space arranged for living per person it is necessary to provide means of approximately 900 million KM.

In relation to this, in 2003 the Ministry prepared and Council of Ministers of Bosnia and Herzegovina passed "The Bosnia and Herzegovina Strategy for implementation of the Annex 7 of Dayton Peace Agreement", that represents the first mutual, framework document of Bosnia and Herzegovina that determines aims and plans necessary actions and reforms for the purpose of realization of one of the most significant annexes of General Framework Agreement for Peace in Bosnia and Herzegovina (Annex 7).

For these purposes, all institutions in Bosnia and Herzegovina (Bosnia and Herzegovina, entities, cantons, municipalities, Brčko District) allocated approximately 100 million KM during 2003, and international communities donated almost the same amount.

During 2003, for reconstruction of residential fund and infrastructure in Bosnia and Herzegovina, and for the benefit of easier return of refugees and displaced persons, with total announced investments of 216,7 mil. KM, Bosnia and Herzegovina government bodies participated with 35% of total amount, international donators with 55%, and the rest of the means was provided through non-governmental sector and personal investments of the returnees.

It is clear that, in matter of investments in reconstruction, the year 2003 was very successful comparing to a Strategy's defined framework aims.

Part of programmed activity on reconstruction started in 2003 but was moved to 2004 for physical realization.

144. Fund for Return was finally established in 2004 as an independent administrative financial organization with the Council of Ministers of Bosnia and Herzegovina. Its task is to implement financial decisions of the Commission for Refugees and Displaced Persons as coordinating body at Bosnia and Herzegovina level.

Means for operating of the Fund for Return and implementation of the Commission for Refugees and Displaced Persons decisions in domain of reconstruction of residential units for the purpose of the return are provided as a part budget for 2004 of competent entities ministries for refugees and displaced persons, the Ministry for Human Rights and Refugees and Brčko District Government budget.

For the needs of reconstruction of approximately 2.000 residential units, for the needs of return in year 2003 and 2004, an amount of approximately 35,8 mil. KM was provided by the agreements on association and manner of realization of the means for the reconstruction of

returnees' residential units signed by the Ministry for Human Rights and Refugees, Federal Ministry of Displaced Persons and Refugees, The Republika Srpska Ministry for Refugees and Displaced Persons and Brčko District Government for the year 2003 and 2004.

145. On the basis of Agreement for the year 2004, the Commission for Refugees and Displaced Persons, at its 9th session held in Mostar on 12/10/2004 has made selection, using earlier enacted by-laws, of 42 municipalities in which the projects will be implemented and financed as joint projects (30 municipalities).

Classification of priority areas was done with usage of Ministry for Human Rights and Refugees methodology based on needs, that is on the basis of the number of applications for gaining support for the reconstruction and return registered on the basis of open call of the Ministry announced in June 2004 and total number of destroyed and damaged residential units left on the territory of specified municipality.

146. Realization of the return of property and residential rights

This is one of the strategic aims of implementation of the Annex 7 of Dayton Peace Agreement that is almost completed.

The return of property has always been easier than real return of displaced persons and refugees because of various circumstances in Bosnia and Herzegovina.

Some of the reasons are very slow establishment of stability and safety in areas on the territory of Bosnia and Herzegovina after the signing of General Framework Agreement for Peace in Bosnia and Herzegovina, as well as relatively (not) arranged regulation in domain of return of property and residential rights.

Process of return of property and residential rights is nearly completed (less than 1% not returned property).

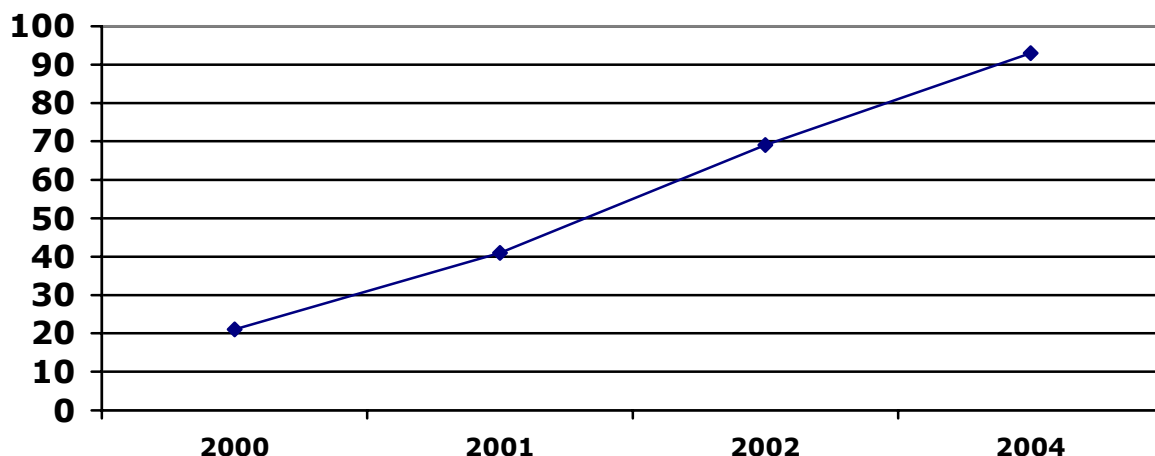
147. On the basis of 213.239 requests in Bosnia and Herzegovina 198.307 that is 93% of positive decisions approving return of property and residential rights was passed inclusive of 30/09/2004. In the same period only 13.383, that is 6,28% was negatively solved.

Till the mentioned date there were 92,71%, that is 197.692 requests solved "de iure" and "de facto", to be more accurate, that is the number of the owners and holders of the residential right who came into their property possession. Out of this number, real redemption was solved for 107.326 requests, that is 92,79% in Bosnia and Herzegovina Federation, 83.649 requests, that is 92,35% in the Republika Srpska, and 6.717 requests, that is 96,11% in Brčko District.

As it is displayed in the following chart, comparing to the results realized till the beginning of the year 2003, when the percentage of implementation of property laws in Bosnia and Herzegovina was 69%, the results realized in period from 01/01/2003 to 30/09/2004 are magnified for almost a quarter.

Graph 1

**Percentage of implementation of property regulations
in Bosnia and Herzegovina**



5. Creating conditions for sustained return

148. Creating conditions for sustained return and reintegration of the returnees is the strategic aim that has achieved limited results. Inadequately defined and consistent policy and the regulations in domain of health, education, social protection, employment and other issues in sustained return, especially in the previous period, represent great obstacle to a final process of the return and reintegration in Bosnia and Herzegovina.

Bosnia and Herzegovina Ministry for Human Right and Refugees can not act in this domain in institutional way because this domain in Bosnia and Herzegovina is mostly under a jurisdiction of entities portfolio institutions.

However, there have been some important organizational changes at Bosnia and Herzegovina level lately, such as changes inside of the Bosnia and Herzegovina Council of Ministers, like forming the Bosnia and Herzegovina Ministry of Security, Ministry of Justice, extension of Bosnia and Herzegovina Ministry of Civil Affairs jurisdictions, through undertaking specified issues in domains that have not been treated so far at Bosnia and Herzegovina level, like health, education, social protection, pension and other.

On the other hand, considering the fact that issues related to sustainability are not in Bosnia and Herzegovina Ministry for Human Rights and Refugees jurisdiction, all significant domains that can be treated in context of sustained return (safety, education, health, social and pension protection, mine disposal etc.) are permanent and very significant points of sessions agenda of Commission for Refugees and Displaced Persons who has programmed this situation and in that way fulfils its role as a coordinator between portfolio institutions.

149. The Plan of activities for consideration of issues of sustained return was passed on the second session of the Commission held on 24/03/2004. The issues of safety and mine disposal, education and health were treated during the year 2004 on the basis of that plan.

Within the discussion on issues of safety, as element of sustained return, it is noticed that the safety is becoming more and more secondary reason that effects negatively on the final decision of return and reintegration of the returnees. During the last two years implementation of the regulations on property has accelerated and almost all property and residential rights were returned to their pre-war owners and holders. That was a great encouragement for creating a positive climate between persons, total realization of freedom of movement and opening of all parts of Bosnia and Herzegovina for free access and movement of pre-war population.

However, it is still necessary to continue with work on institutional development of this sector.

Although there are some results in employment of representatives of the so-called national minorities in police department and Ministry of Internal Affairs, it is still a priority that has not been adequately implemented.

150. The fact that there is still approximately 4% of territory of Bosnia and Herzegovina covered with mines does not give us the right to be satisfied with the state of this issue, although there are evident results on mine disposal as important precondition for return and reintegration in Bosnia and Herzegovina. Mine disposal is surely important precondition for return, especially if it is known that the return to villages and places where agriculture and cattle breeding are basic for providing the returnees' subsistence.

This domain is coordinated with the Ministry of Civil Affairs in a manner that it gets plans and projects of the return submitted. The Commission for Demining and donors coordinate these plans and projects with the mine action planning.

Bosnia and Herzegovina is a country that has the largest and the most complex problem of mines in Europe and is in the group of the most jeopardised countries in the world. The nature of mine problem in Bosnia and Herzegovina is characterized by the following: lack of records on minefields, unreliable information of locations of minefields, their shape and mine pattern, setting mines individually or in relatively small number on a big area, which results in a vast mine suspected areas. All that complicates the situation. Mines limit access to natural and other resources necessary for development of the country and especially for sustainability of population return.

Total mine suspected area is 2.481 square metres or approximately 4% of the territory of Bosnia and Herzegovina. Number of local communities in Bosnia and Herzegovina that are jeopardised by mines is 1.366 that makes 1/5 of total number of these communities. In communities with mine problem lives approximately 1.300.000 of people, of which 100.000 is directly mine threatened. Total of 128 municipalities is mine-contaminated.

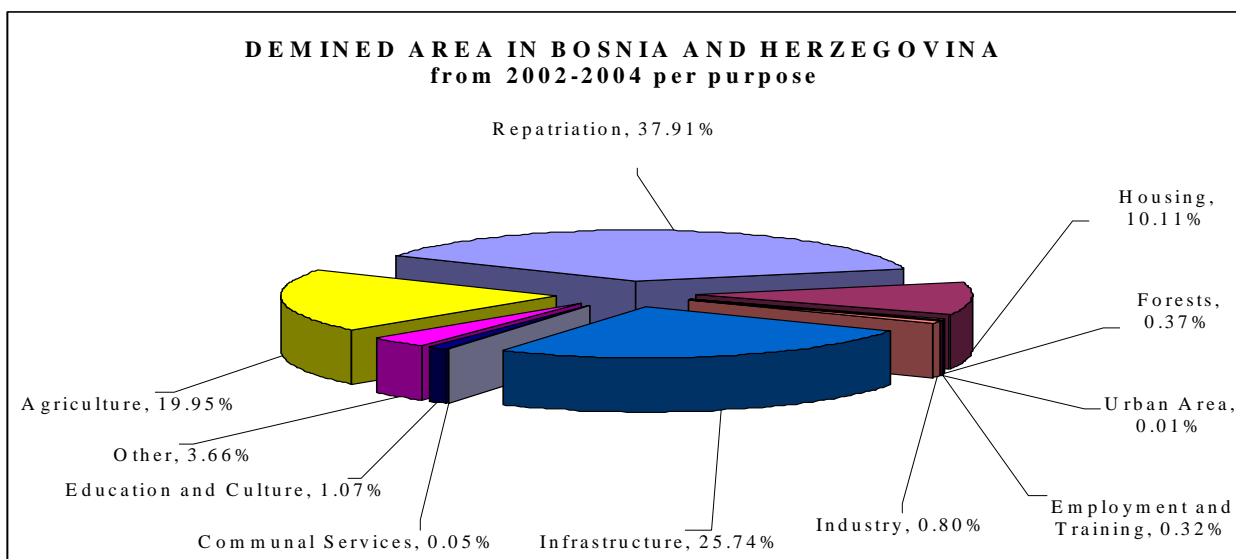
Significant progress in developing the mine action system has been achieved in past period. This progress is reflected in ammendment of the Standard for Mine and Unexploded Ordnance Disposal and adoption of new Demining Strategy in Bosnia and Herzegovina till the year 2009.

Table 5
Humanitarian demining

Year	Cleaned mines	Cleaned houses
2002	6 001 392.00	300
2003	6 411 947.00	181
2004	4 170 961.00	88
Total	16 584 300.00	569

151. Focus of mine action in function of sustainability of the return in period from 2002 to 2004 was at demining of terrains scheduled for population return, infrastructure, occupancy (repairing of the houses) and agriculture. Besides the humanitarian demining various measures of prevention have been undertaken for the protection of population. The main objective of these measures was marking and mineawareness of population.

Graph 2



152. For the purpose of coordination of the interests for return and creating preconditions for its realization, the government gives priority to restoration of approximately 50.000 residential units which would provide direct return of approximately 200.000 displaced persons and refugees during the four planned years. That would, in combination with implementation of property regulations, create suppositions for complete implementation of the regulations from Annex 7 of Dayton Peace Agreement and successful completing of the return process in Bosnia and Herzegovina.

In order to reach this ambitious strategic aim it is necessary to accommodate policy and regulations in this domain and enable the Fund for Return that started with its work in 2004. In this way, more active participation is expected, and also it is expected that international community direct means to Fund for Return and give its contribution and participation in mutual activities. It is supposed that it is necessary to provide approximately 900 millions KM for financing of reconstruction of 50.000 residential units.

153. Even if it is the country with the highest number of refugee and displaced population, Bosnia and Herzegovina accepted a large number of refugees from Federative Republic of Yugoslavia and Republic of Croatia because of the situation in its surrounding. According to current information dated on 30/09/2004 there are 22.534 refugees in Bosnia and Herzegovina who have all the rights in accordance with positive legal regulations. Of this number, 3057 are refugees from Serbia and Montenegro, and 19.477 from Republic of Croatia.

154. According to Law on Movement and Stay of Foreigners and Asylum (further on: the Law) the Bosnia and Herzegovina Ministry of Security has a jurisdiction in issues of asylum and especially for deciding of requests for asylum.

Department for Asylum that functions in Sector for Immigration and Asylum of Bosnia and Herzegovina Ministry of Security (further on Department for Asylum) was not fitted in cadre and technical sense for implementation of asylum procedure in period from 01/01 to 30/06/2004, so UNHCR was conducting activities referring to determination of refugee status. The main aim of this project refers to establishing of functional system of asylum in Bosnia and Herzegovina, that is creating a capacity of government bodies so that they could take over the function of implementation of asylum process in the middle of 2004.

In the report period it was necessary to realize the following results: the procedures of managing the procedure of determination of refugee status, from identifying the asylum seekers, reception of the applications for asylum, briefing applicants on asylum procedure, passing a decision that is final in administrative procedure, and passing a decision that is executive upon irrevocability of the decision in effect, so that state authorities, that is Department for Asylum, would be able to take over jurisdiction determined by the Law in given terms.

The following bylaws were passed:

- Draft of structure of Sector for Immigration and Asylum as an organizational unit of the Ministry of Security, which is constituent part of Regulations on Internal Organization of the Bosnia and Herzegovina Ministry of Security,
- Bylaws that regulate this domain are:
 - Regulations on Travel Document for Foreigners (“Official Gazette of BiH”, No. 25/04);
 - Regulations on Asylum in Bosnia and Herzegovina (“Official Gazette of BiH”, No. 26/04); and
 - Regulations on Protection of Foreigners the Victims of Trafficking (“Official Gazette of BiH”, No. 26/04).

UNHCR helped the Department for Asylum to engage two jurists and one translator with part-time contract in accordance with the “Help and Development of Capacity in Department for Asylum” project with Bosnia and Herzegovina Ministry of Security. The jurists have continued with their engagement from the year 2003 and the translator was engaged on 01/06/2004. This support is necessary for continuity, till the official procedures of filling the positions in Department for Asylum have been completed.

Training of the employees in Department for Asylum and Department for Foreigners is realized in entities and Brčko District Ministries of Internal Affairs.

The Decision was made on extension of the status of the temporary shelter for persons from Serbia and Montenegro with the last residence on Kosovo and Metohia, as well as the Directive on extension of the status of temporary shelter for the persons from Serbia and Montenegro with the last residence on Kosovo and Metohia.

155. (a) **Refugees from Serbia and Montenegro have recognized temporary shelter in Bosnia and Herzegovina**

In the report period, the activity of extension of temporary shelter for persons from Serbia and Montenegro who have recognized temporary shelter in Bosnia and Herzegovina was realized in accordance with the Decision on extension of temporary shelter for persons from Serbia and Montenegro in Bosnia and Herzegovina and the Directive on status of persons from Serbia and Montenegro who have temporary shelter in Bosnia and Herzegovina. This activity lasted until 29/06/2004.

3057 persons had the right on temporary shelter till 30/06/2004. In accordance with the valid legal regulations those persons have the right on extension of the temporary shelter in Bosnia and Herzegovina till 30/06/2005.

According to available information, 3033 persons, who are citizens of Serbia and Montenegro and have the right on extension of temporary shelter in Bosnia and Herzegovina, have residence in Bosnia and Herzegovina Federation and 24 in The Republika Srpska.

1.539 females and 1.518 males make the sex structure of persons who have the right on temporary shelter.

(b) **Refugees from the Republic of Croatia**

Besides refugees from Serbia and Montenegro there is a large number (19.477 by latest information) of Serb refugees from Republic of Croatia who live in Bosnia and Herzegovina and the Republika Srpska. It should be pointed out that fundamental human rights of this refugee category are drastically jeopardised because their home state, Republic of Croatia, haven't showed so far interest to create at least minimum conditions for their return. The most jeopardised are those refugees to whom Republic of Croatia has taken away residential rights so they have not practically got where to return. If we add other existential problems of these persons and also the impossibility of Bosnia and Herzegovina to resolve these complex problems alone it appears that it is necessary to solve the same through Zagreb-Sarajevo-Belgrade relation. The government representatives of these three states have already made the preliminary agreements and signed adequate protocols for solving the problems of the Serb refugees from Republic of Croatia to Bosnia and Herzegovina.

(c) **Submitted requests for asylum in Bosnia and Herzegovina and recognized rights to refugee status**

UNHCR was conducting the procedure of recognition of refugee status during the observed period. The Department for Asylum participated in it only in educational sense - through the education at work for its employees.

(d) Accommodation in refugee centers

In the report period UNHCR was placing persons who requested asylum to refugee centers made for accommodation of persons from Serbia and Montenegro who have temporary shelter in Bosnia and Herzegovina because asylum center does not exist. Ministry of Human Rights and Refugees managed these centers. The Ministry of Security Department for Asylum had no activities in this field.

156. Implementation measures**(i) Management of procedure for establishing of refugee status taken over by the Ministry of Security**

During the report period UNHCR was conducting activities on recognition of refugee status in Bosnia and Herzegovina.

Also, the employees in Department for Asylum have continued with education at work implemented by UNHCR. The education applied to domain of international refugee law, implementation of asylum procedure and passing first level decisions that are final in administrative procedure.

In cooperation with UNHCR the Department for Asylum has undertaken the activities in creating and fitting of system of directing of the requests for asylum submitted to Departments for Foreigners with Bosnia and Herzegovina Federation cantonal Ministries of Internal Affairs, the Republika Srpska Public Safety Centers in Brčko District Police, as well as to State Border Service.

The taking over the asylum procedure from UNHCR by the Bosnia and Herzegovina Ministry of Security means providing of conditions for shelter and placing the asylum seekers. Council of Ministers of Bosnia and Herzegovina passed the decision on founding of specialized institutions for sheltering foreigners on its 51st session held on 29/04/2004. Asylum Center, that is center for sheltering asylum seekers in Bosnia and Herzegovina is one of the specialized institutions.

(ii) Legally defined bylaws relating to international protection of refugee asylum-seekers, and relevant internal instructions

- In cooperation with UNHCR, the Department for Asylum has prepared the draft text on organization of the Sector for Asylum as Ministry of Security organizational unit. This is constituent part of Regulations on Internal Organization of Bosnia and Herzegovina Ministry of Security. The Regulation is in the process of enacting;
- The Regulation defines the Sector for Asylum as Ministry of Security special organizational unit consisted of three departments: Department for Asylum Procedure, Department for Support and Department for Shelter and Programme;
- In cooperation with UNHCR, the Department for Asylum has prepared the text of Regulation on Asylum in Bosnia and Herzegovina that came into force on 15/06/2004;

- In accordance with Article 79 of the Law on Movement and Stay of Foreigners and Asylum, the Regulation determines fundamental principles, competent bodies, terms and manner of recognition of refugee status and humanitarian reasons for temporary residence. Also, this Regulation determines the rights and obligations of asylum seekers, the method and procedure of refugee registration, and the principles of information protection as well as other issues related to asylum in Bosnia and Herzegovina;
- In cooperation with UNHCR, the Department for Asylum has participated in working group that prepared the Regulation on Travel Document for Foreigners;
- The Regulation defines the possibility of issuing the Travel Document for foreigners to a foreigner who had recognized asylum or humanitarian reasons residence, or who is under temporary protection in order to enable him to return to his home land or state where he has permanent residence, or to a third state with a person's approval.

(iii) Establishing responsibility of provisions granting adequate solutions for persons from Kosovo and Metohia currently having temporary reception status

In accordance with the Directive on the status of persons from Serbia and Montenegro having temporary reception in Bosnia and Herzegovina, the Department for Asylum was exerting the extension of temporary reception for persons from Serbia and Montenegro in Bosnia and Herzegovina, in cooperation with competent municipality bodies for issues of displaced persons and refugees. Activities for extension of temporary reception lasted till 29/06/2004. Implementation of the Directive on status of persons from Serbia and Montenegro having temporary reception in Bosnia and Herzegovina stopped after the Directive on extension of status of temporary reception in Bosnia and Herzegovina for the persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia came into force.

The employees of the Department for Asylum were in continuous contact with competent municipality bodies for issues of refugees and displaced persons and offered all necessary instructions for implementation of current directives.

- In cooperation with UNHCR the Department for Asylum has prepared the Decision on extension of status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia that came into force on 18/06/2004;
- This decision provides extension of status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia till the 30/06/2005. The Bosnia and Herzegovina Ministry of Security is by this decision authorized to revise and supplement the Directive on status of persons from Serbia and Montenegro having temporary reception in Bosnia and Herzegovina or to pass a new Directive that would regulate the status of the persons having, in accordance with the Decision, the status of temporary reception in Bosnia and Herzegovina;

- In accordance with the Decision on extension of status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia the Department for Asylum has, in cooperation with UNHCR, prepared the Directive on extension of the status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia that came into force on 29/06/2004.

The Directive regulates the procedure and conditions of temporary reception status extension, the rights and obligations of persons having temporary reception extended in Bosnia and Herzegovina, as well as the conditions under which the temporary reception status can stop even before the term of extension of temporary reception ends.

The Bosnia and Herzegovina Ministry of Security has, in cooperation with UNHCR, made forms defined by the Directive on extension of status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia. Forms are distributed to competent municipalities bodies for implementation of the procedure of temporary reception extension. The Bosnia and Herzegovina Ministry of Security Department for Asylum has made and distributed lists of persons having temporary reception in Bosnia and Herzegovina extended till 30/06/2005 to municipalities bodies.

The Bosnia and Herzegovina Ministry of Security Department for Asylum has organized working meeting with representatives of competent municipalities bodies for issues of displaced persons and refugees and introduced them with the implementation of the Directive on extension of status of temporary reception in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia. After that, the analysis of possible problems in implementation was done and the principles of acting were defined.

Influence to protect beneficiaries and UNHCR priority policy

157. The legal framework whose implementation ensures to asylum seekers and refugees the access to territory of Bosnia and Herzegovina, equitably and effective procedure of refugee status determination was defined and adopted.

Legal procedure that enables development and consolidation of state resources to manage the functional asylum system is provided.

Personnel for all phases of asylum administrative procedure, that is, from the moment of asylum seekers identification, reception of requests, to final decision passing in administrative procedure was educated. The number of educated persons is not adequate so it is necessary to involve more persons in education.

The passed legal regulation define that during the entire asylum procedure it is supposed to try to resolve at first place requests of asylum seekers who are victims of violence, torture or trauma, the old or disabled persons, abandoned children, those who need instant medical care etc.

Similar investments and projects

158. The European Commission project as part of CARDS programme named “The Support in Development of Capacities for Acting on Asylum Requests and Treatment of Asylum Seekers in Bosnia and Herzegovina “ started in October 2003. Aim of the Project is to help Bosnia and Herzegovina bodies to establish their own capacity to ensure access to the territory and fair effective procedure of refugee status determination to asylum seekers and refugees, and to enable them to use their rights guaranteed by domestic legislation that is in accordance with international standards. European Commission finances the project and UNHCR implements it in coordination with the Ministry of Security.

European Commission finances the “Establishing of Central Information Base and Software Support on Territory of Bosnia and Herzegovina” project out of the CARDS programme. Provision of three access stations for using and connection with the information base on foreigners, two printers for Asylum organizational unit and 16 board cameras for the Departments for Foreigners where requests for asylum will be received is planned to be realized by implementation of this project. Acquisition of planned equipment is not adequate for implementation of asylum procedure defined by existing bylaws.

Table 6

Report on progress according to figures

Efficiency Indexes	Real progress
<ul style="list-style-type: none"> • Access to the territory was not denied to any asylum seeker at the border. • Number of forced returns (refoulement) and deportations of asylum seekers and refugees to third countries has decreased or completely reversed. 	<ul style="list-style-type: none"> • There is no information that the asylum seeker was denied access to the territory of Bosnia and Herzegovina. • None of the asylum seekers or refugees has been deported and the principle of refoulement was broken
<ul style="list-style-type: none"> • The access to asylum procedure wasn't denied to any asylum seeker. % of asylum seekers requests was processed in 10 months. 	<ul style="list-style-type: none"> • As UNHCR ran the asylum procedure the Ministry had no information that a person was denied access to asylum procedure.
<ul style="list-style-type: none"> • None of the asylum seekers or refugees was denied access to the rights guaranteed by international and regional standards. Law gaps in national legislative are reduced. • Bylaws on Law are passed by April 14 of the year 2004. 	<ul style="list-style-type: none"> • The Department has no indexes in domain of realization of these rights because the function of realization of mentioned rights in report period was separated from Ministry of Security-Department for asylum. • Under legal act, the Regulation on Asylum in Bosnia and Herzegovina was passed on 15/04/2004.
<ul style="list-style-type: none"> • None person needing international protection wasn't denied the same (whether it is for continuous temporary shelter or access or asylum procedures). 	<ul style="list-style-type: none"> • Temporary shelter in Bosnia and Herzegovina was extended till 30/06/2005 to all persons having temporary shelter in Bosnia and Herzegovina till 30/06/04, and the asylum procedure was conducted by UNHCR.

Table 6 (continued)

Accomplishments Indexes	Real progress
<ul style="list-style-type: none"> • Drafts of bylaws were in procedure of enactment in time. • UNHCR opinions and comments are considered in bylaws drafts. 	<ul style="list-style-type: none"> • Draft bylaws were in procedure of enactment in time. Bosnia and Herzegovina Ministry of Security Regulation on Internal Organization Bill is in passing procedure. Regulation on Asylum in Bosnia and Herzegovina came into force (“Official Gazette of BiH”, no. 26/04). Regulation on Travel Document for Foreigners came into force (“Official gazette of BiH”, No. 25/04). • UNHCR opinions and comments are considered in draft bylaws.
<ul style="list-style-type: none"> • Translator vacancy was placed in draft bylaws after it was given to passing procedure. 	<ul style="list-style-type: none"> • Draft bylaw on Ministry internal organization was done and translator vacancy was placed in Sector for Asylum.
<ul style="list-style-type: none"> • The Strategy was finished by June 30 2004 without omissions in undertaking procedure. 	<ul style="list-style-type: none"> • The Strategy was prepared till June 30 2004. Accommodation of Protocol on transfer of refugee status determination and other responsibilities related to asylum from UNHCR to Bosnia and Herzegovina Ministry of Security bill provisions is still under procedure.
<ul style="list-style-type: none"> • The Ministry accepts and registers all new asylum requests since July 1 2004. 	<ul style="list-style-type: none"> • The Ministry will accept and register all new asylum requests from July 1 2004.
<ul style="list-style-type: none"> • Information is available at all entry posts till July 1 2004. • Information was made in all asylum seekers in Bosnia and Herzegovina speaking languages. 	<ul style="list-style-type: none"> • Information is not prepared; the activities are extended for second half of the year 2004.
<ul style="list-style-type: none"> • Statistic information is regularly forwarded to UNHCR. 	<ul style="list-style-type: none"> • The Ministry has statistic information related to persons having temporary shelter in Bosnia and Herzegovina that forwards to UNHCR on demand. Software for databases on asylum seekers isn't done yet.
<ul style="list-style-type: none"> • Competent translators team is founded till Ministry takes over the procedure of asylum status determination. 	<ul style="list-style-type: none"> • Team of translators is not founded and the Ministry uses the UNHCR team of translators.
<ul style="list-style-type: none"> • 10 male and female translators have passed through UNHCR education. 	<ul style="list-style-type: none"> • Activity was not realized in report period, but it is planned in under project for second half of 2004.
<ul style="list-style-type: none"> • All employees in Department for Asylum have passed through education on refugee law and asylum seekers and refugees rights. • 3 jurists have passed training at vacancy on interviewing techniques, writing evaluations etc. • UNHCR provided participation of X jurists at external trainings on refugee law. 	<ul style="list-style-type: none"> • All employees in Department for Asylum have passed through education on refugee law and asylum seekers and refugees rights. In accordance with employing new employees by suggested systematisation in passing phase, it is necessary to continue with education in certain domains of asylum procedure. • 2 jurists have passed training at vacancy on interviewing techniques, writing evaluations etc. 1 jurist is still passing mentioned training.

Table 6 (continued)

Accomplishments Indexes	Real progress
<ul style="list-style-type: none"> • Prompt equipment acquired in accordance with UNHCR directions for equipment acquiring. 	<ul style="list-style-type: none"> • Equipment acquiring in progress.
<ul style="list-style-type: none"> • Re-questioning of further need for protection promptly brought to end. • Re-questioning didn't cause any omission on issue of protection. 	<ul style="list-style-type: none"> • Re-questioning of further need for protection promptly brought to end. The Decision on extension of status of temporary shelter in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo and Metohia came into force ("Official Gazette of BiH", no. 33/04). The Directive on extension of status of temporary shelter in Bosnia and Herzegovina for persons from Serbia and Montenegro having the latest residence at Kosovo came into force on 29/06/2004 ("Official Gazette of BiH", No. 33/04).
<ul style="list-style-type: none"> • Every individual is adequately informed. 	<ul style="list-style-type: none"> • Every individual is adequately informed. The information on extension of temporary shelter status was delivered to users addresses.

159. General evaluation of the project outputs

(a) Overall project impact

Implementation of the Project in report period provided:

- Making 5 bylaws of which 4 came into force and 1 is in passing procedure;
- Personnel of Department for Asylum was consolidated with employing of 2 jurists and 1 translator with part-time contract;
- Education at work for employees in Department for Asylum was realized;
- One "round table" and seminar for purpose of education of one inspector for foreigners by each Ministries of Internal Affairs Departments for Foreigners that are under their jurisdiction was held;
- Implementation of Project provided conditions for Ministry of Security to take over the activities on registration of new asylum seekers and passing decisions on mentioned requests that are final in administrative procedure on 01/07/2004.

(b) Cooperation with other participants

Ministry of Security Department for Asylum is directly cooperating with UNHCR in all issues related to asylum procedure and status of persons having temporary shelter in Bosnia and Herzegovina. Also, Ministry of Security Department for Asylum has, in report period, directly cooperated with European Commission and IOM in implementation of the CARDS programme projects supporting development of asylum system in Bosnia and Herzegovina.

(c) Unsatisfied needs

Implementation of Project activities referring to support of development of asylum system in Bosnia and Herzegovina mostly followed plan defined by Project in the report period. Priority was in creating of legal regulative and personnel education.

Significant number of bylaws was done and their implementation is expected in following period. However, it is necessary to pass the missing legal acts so that the procedures of asylum system implementation in full, such as issuing of travel document for refugees, functioning of asylum center and defining conditions for further status regulation for all persons having refugee status or having temporary shelter on Bosnia and Herzegovina territory recognized, can be legally regulated before the Law on Movement and Stay of Foreigners and Asylum comes into force.

Certain number of persons able to take over and conduct asylum procedure from the moment of recognition of potential asylum seeker, taking over asylum request, to passing of final decision in administrative procedure were educated. However, the number of educated persons is inadequate and it is necessary to continue with education at all levels in order to increase the number of persons qualified for conduction of asylum procedure activities.

Provision of technical component that is, besides legal regulative and qualified personnel, necessary for conduct of asylum procedure is in delay. Realization of mentioned part is priority in the following period of Project implementation.

(d) Lessons learnt and recommendations for the future

We think that in the reporting period, Bosnia and Herzegovina in cooperation with UNHCR, achieved significant results that are consequences of coordination of all activities that are realised within projects supporting developments of asylum system in Bosnia and Herzegovina.

Established practice and method of operation should be continued in the future period, and we should work constantly on discovering of the new solutions that will enable efficient implementation of the asylum system in Bosnia and Herzegovina, in accordance with international standards and EU standards.

(e) Manner of regulating the movement of foreigners

Freedom of movement of foreigners is regulating by the Article 5 of the Law on Movement and Stay of Foreigners and Asylum, by which it is defined that foreigners who stay in Bosnia and Herzegovina, on conditions that are defined by the above mentioned Law, have the right on freedom of movement within the country and freedom of choice of the place of residence, if not defined otherwise by the mentioned and other special laws.

(f) Right of foreigners to get employed in Bosnia and Herzegovina

Right of foreigners and people without citizenship to get employed are regulated by special Laws on Employment of Foreigners, which are passed in both entities on BiH level, by the Law on Movement and Stay of Foreigners and Asylum. According to the mentioned Law,

foreigner is someone who has no citizenship of Bosnia and Herzegovina. The foreigner can conclude an employment contract or a contract for carrying out some temporary and occasional works with the employer before they get employment licence in accordance with the Law. Working licence is issued to the foreigner on condition that he has permission for permanent residence or temporary residence on the territory of Bosnia and Herzegovina. Employment licence is issued on definite time, not longer than one year. Exceptionally, according to the legislature of the Federation of Bosnia and Herzegovina, employment licence can be issued on indefinite time. Request for the employment licence for foreigners submit the employer to the employment bureau, with explanation of employment necessity with foreigner, conditions for concluding employment contract or contract for carrying out temporary and occasional works, number of needed employees, kinds of job and its duration.

The employment bureau issues employment licence. Employment licence cannot be issued to the foreigner who possesses tourist visa.

Employment licence for foreigners cease to be valid in the following cases: when the time of licence is expired, when the time for temporary residence is expired, cancel of residence, in accordance with special regulations and with the loss of the status of the permanent residence, expire of the employment contract duration or the contract for the execution of temporary and occasional works, withdrawal of the employment licence, etc.

An employment licence issued to a foreigner will be withdrawn in the case of serious criminal act, or act against public order and peace for which a prison sentence can be passed, as well as in other cases according to the law. On withdrawal of the employment licence decides the authority that has issued it. The responsible office is obliged to inform the responsible inspection for work and employment about any withdrawal of the employment licence issued to a foreigner within five days.

The employer who has concluded an employment contract after the Law on the movement and residence of foreigners and on the asylum enters into force, or the a contract for execution of temporary and occasional works with foreigners, is obliged to submit an application for issuing the employment licence for the foreigner within 30 days after this law enter into force. If the employment licence is not issued to the foreigner, in accordance with the Law, his employment contract ceases, in other words - his contract for execution of temporary and occasional works ended too.

Although the previous provisions are held in both entity laws on employment of foreigners, there are opinions that existing solutions are contrary to the Law on asylum and residence of foreigners in Bosnia and Herzegovina, according to which the employment licence is one of the conditions for obtaining temporary residence and entering the country. There are opinions that issuing of employment licence should be conditioned by legal residence of foreigners in Bosnia and Herzegovina and that employment licence can not be issued to the person who has no legal residence and who is not present on the territory of Bosnia and Herzegovina, because it is contrary with the other regulations in the field of work and employment. Temporary valid solutions in both entity laws are in function of fights against human trade and illegal and irregular entering the country. If the employment licence was the base of entering the country in order to get employed, it would be a huge risk, because the previous employer's offer for conclusion of employment contract could be misused to great extent and in function of illegal foreigners entering Bosnia and Herzegovina.

Article 13. Rights of foreigners

160. According to the legislation of Bosnia and Herzegovina, expel of foreigners can be done only if based on the decision made in accordance with the valid legal regulations, except in the cases when there are urgent reasons because of the national security, in order to state reasons for expel and that their case can be assessed by the authority, and to provide them personal solicitor. According to the Article 56. of the Law on Movement and Stay of Foreigners and Asylum, an expel is a measure by which leaving Bosnia and Herzegovina is ordered to the foreigner, forbidding entering and residence in Bosnia and Herzegovina during the definite period of time, which can not be shorter than one year and no longer than ten years. The Decision of expel of foreigners from the territory of Bosnia and Herzegovina issues the responsible organisation unit of the BiH Ministry of security according to the official duty, on the proposal of the court, some other organisational units of the Ministry or the ministries of internal affairs. Time duration of the expel counts from the day of making the final decision, while the time spent in the prison, or the surveillance, does not count into the whole time duration of this measure. The term for the willing execution of decision is defined by the decision on expel, which cannot be longer than 15 days.

161. The expel can be sentenced to the foreigner because of the following reasons: if he or she stayed in Bosnia and Herzegovina after the expired date of his or her visa or permitted residence; after the expired date of visa-free residence; if the visa is abolished by the effective judgment, and residence of the foreigner is not cancelled; if the foreigner stayed in Bosnia and Herzegovina after the cease of asylum permission or after asylum request is refused by the effective judgment, and has not achieved the right to residence in accordance with the law, no obtained Bosnia and Herzegovina citizenship; if the decision on withdrawing of Bosnia and Herzegovina citizenship went into effect, and he or she has not achieved the right on residence in accordance with this law; if he or she has broken or try to break regulations of border crossing of Bosnia and Herzegovina, no matter if it happened during the entering or leaving Bosnia and Herzegovina; if the right on residence of the foreigner or residence permission is cancelled in accordance with the law and has not left the territory of Bosnia and Herzegovina in the given term; if he or she is found guilty by criminal acts which are dealing with trade of narcotics, arms, trading in human beings, terrorism, money laundering or any other kind of organised crime, cross-border and transnationals crimes, and the court has not found him or her guilty or the measure of expel from the territory of Bosnia and Herzegovina; if the Court of Bosnia and Herzegovina sentenced him or her for other criminal act and punished with more than four years of prison, and the court has not sentenced security measure of expel from the territory of Bosnia and Herzegovina along with the punishment.

162. During assessment whether the foreigner will be sentenced by the measure of expel from the territory of the country, or while making the decision on the time duration of such measure, the authorised organisation unit of the Ministry is obliged to assess all the circumstances with the same attention, proofs all facts important for making the decision, in accordance with the principles and paragraphs of Bosnia and Herzegovina Law on legal procedure.

163. An appeal against the decision of expel to the Ministry of Security of BiH is possible within 15 days from the day of receipt of the decision. The final decision of the expel is realised by the authorised organisation unit of the Ministry which has made a first instance decision, by

taking measures for expel of foreigners from Bosnia and Herzegovina by force, with cooperation of other organisation units of the Ministry of Security of BiH or the Ministry of Internal Affairs, if necessary, and in accordance with the mentioned law.

164. According to the existing legislation of BiH Council of Ministers, on the explained proposal of the state ministry or the authorised Ministry of security of BiH, acting on individual cases, can make decision of expel of foreigners from Bosnia and Herzegovina, if it assesses that the expel is necessary for public order, or if it is based on the reasons of national security, according to the article 1, point 2, Protocol No. 7. of European Convention on Protection of Human Rights and Freedoms.

165. According to the actual legislature of Bosnia and Herzegovina, its entities and Brcko District of BiH, foreigners will not be in any case, returned or expelled on the territory where their lives or freedom could be endangered because of the race, religion, nationality, belonging to the special social group, or because of the political opinion, no matter they officially got asylum. Ban on return or expel also refers to the persons who could be in danger of victimisation, unhuman treatment and torture. Foreigners could not be sent into the country in which they are not protected from sending onto such territory.

166. When the foreigner cited the reasons connected with the Article 60 of the mentioned Law, authority sends the subject to the Ministry of Security of BiH in order to take legal action of being well-founded and existence of conditions for asylum permission or the permission for temporary residence for humanitarian reasons according to the paragraphs of the mentioned law. Decision on expel could be done only after the first initial decision made according to the legal provisions.

167. The foreigner can be expelled from Bosnia and Herzegovina according to the official rule, when it is confirmed that his or her residence is illegal. Then, the authority organisation unit of the Ministry of security of BiH, which has made the decision on expel of foreigners, makes the conclusion of expel. Conclusion of expel permission is made without delay, and no later than seven days from the day of receipt of the decision, and without delay is delivered to the foreigner. An appeal against the conclusion to the Ministry is permitted within 15 days from the day of receipt, but the appeal does not postpone the implementation of the conclusion.

168. If legal action against the foreigner is taken, decision on expel cannot be implement before the legal action is finished by the effective judgment. Decision on expel cannot be execute before the foreigner served the prison sentence, except in the cases when the conditional sentence is passed. Expel by force will not be execute if the foreigner decides to leave the territory of Bosnia and Herzegovina willingly, or with the help of the international government and non-governmental organisations, and gives guarantee for that decision within the period alleged in the expel decision.

Authorised ministry will regulate the way and procedures of the expel of foreigners from Bosnia and Herzegovina by the special legal act, taking into account return costs.

169. Control for purpose of ensuring execution of the decision of expel a foreigner, the cancel of residence, and other reasons according to the law can be given to the foreigner. Control is given in the following situations: if the foreigner can run away or in any other way make the

execution of decision impossible, and if the free and unlimited movement of the foreigner can endanger national security or public order in Bosnia and Herzegovina. An appeal against decision on putting the foreigner under control to the Ministry is possible within the three days from the day of receipt, but the appeal does not postpone the execution of decision. The Ministry is obliged to make decision on appeal within seven days from the day of the receipt of appeal. The foreigner stays under control till the moment of expel from the country by force or until the reasons for his or her putting under control does not change significantly.

Article 14. Equality in courts and courts of justice

A. Judiciary and its organization

170. Judiciary at Bosnia and Herzegovina level is organised in accordance with the Law on the Court of Bosnia and Herzegovina, which entered into force on 08.12.2000 by announcement in the Official Gazette of Bosnia and Herzegovina, and which was changed and supplemented during 2003 by the parliamentary procedure, and by the laws on courts and court services of both entities and Brcko District of BiH.

171. Constitutional Court of Bosnia and Herzegovina represents the highest level of judicial authorities. It is the only authorised body for decision-making about any dispute according to the Constitution of Bosnia and Herzegovina between two entities, or between one and both entities, as well as between Institutions in Bosnia and Herzegovina. Constitutional Court of Bosnia and Herzegovina has jurisdiction over the subjects which are passed on from any court in Bosnia and Herzegovina, about the facts if the law, on which validity is based its decision, is compatible with the Constitution of Bosnia and Herzegovina, with European Convention on Protection of Human Rights and Fundamental Freedoms and its protocols, or with the laws of Bosnia and Herzegovina, or with regard to existence or scales of fundamental rights of public international law, which is necessary for the court ruling. Constitutional Court of Bosnia and Herzegovina can take into consideration all verdicts, in which is stated that court rulings violated the Constitution of Bosnia and Herzegovina, including decree on human rights. Rulings by the Constitutional Court of Bosnia and Herzegovina are final and binding.

Constitutional Court of Bosnia and Herzegovina consists of 9 members, of what 4 members are elected by the House of Representatives of the Federation of Bosnia and Herzegovina, 2 members are elected by National Assembly of the Republika Srpska, and the rest three members are elected by the president of the European Court of Justice of Human Rights. Mandate of judge lasts 5 years.

172. In order to ensure efficient realisation of the authority of Bosnia and Herzegovina and respect of human rights and rule of law on its territory, it is established the Court of Bosnia and Herzegovina with the seat in Sarajevo, with the foreign judges. The Court consists of 15 judges, and the president of the Court is a woman.

173. The Court is organised in three judicial departments: a/ criminal department; b/ administrative department; c/ appellate department. The Court of Bosnia and Herzegovina is the specific court and it is the court of first instance, appellate court and cassation court.

In the Federation of Bosnia and Herzegovina in all ten cantons, local courts and cantonal courts are established in accordance with cantonal laws. In the level of Federation of Bosnia and Herzegovina there is Supreme Court of the Federation of Bosnia and Herzegovina and Constitutional Court of the Federation of Bosnia and Herzegovina.

By the law on courts and judicial services in the Republika Srpska, the courts are established as: basic court for the territory of several municipalities, county court for the territory of two or more basic courts; Supreme Court as the highest court in the Republika Srpska and Constitutional Court of the Republika Srpska. It is predicted by this law that there were 28 basic courts and five county courts in the Republika Srpska, and by the new law on amendments to the law on courts and judicial services, number of basic courts is reduced to 19, although it is still acting on the previously established scheme.

Judiciary in Brcko District of Bosnia and Herzegovina consists of: Judiciary commission according to which the most important function makes a choice and release all holders of judicial function of Brcko District of Bosnia and Herzegovina and proposes budget of judiciary to the Assembly of Brcko District; Appellate court of Brcko District of BiH which decides about regular and exceptional legal remedies on decisions of the Basic Court of Brcko District; Basic Court of Brcko District (Law on courts of Brcko District) solves all criminal, civil, offence and other disputes for the territory of Brcko District (universal authority); Public prosecutor's Office of Brcko District (Law on Public Prosecutor's Office of Brcko District) prosecutes the people who committed criminal acts and other special violation, runs and supervises investigation and investigates criminal acts; The Office of legal help in Brcko District (Law on the Office on legal help of Brcko District of BiH), provides services to the persons in bad economic situation, representing them in criminal, litigatory, out-of court settlement and other procedures. The judges, prosecutors, members of the Judicial trust body and police can establish professional associations, but can not be members of the political parties neither to support any political candidates.

It should be emphasised that in the legal regulations of Brcko District it is ensured that every person against whom the prosecution is brought has the right to defence himself or herself personally or to get free legal help if he or she does not have enough funds to engage attorney, to conduct prosecution on the mother tongue and the right for respect of his or her personality and human dignity.

Table number 16 is attached.

174. As the judicial system in Bosnia and Herzegovina was under the acceptable European and world standards for the longer period, in the last few years implementation of the reform of judiciary has begun. At the beginning of 2002 all-inclusive strategy of judiciary reform is introduced. High judicial and prosecutor's councils are formed at the country and entities level, with local and foreign members with the task to supervise the nominating of candidates in judiciary. At the same time the reform of structure of courts and prosecutor's office is introduced in order to reduce number of courts and judges. Parliaments of both entities agreed to transfer special authorities concerning judiciary onto the unique high and prosecutor's council at the state level. This transfer of the authorities represents the signal of strengthening of judicial system at Bosnia and Herzegovina level.

175. Until the beginning of March of 2004, 95% of appointment of judges and prosecutors at the all levels in Bosnia and Herzegovina is carried out, according to the legal regulations and criteria. It should be stressed that there were some attempts to politicisation of the nomination of judge and prosecutors, which had an effect on the process of establishment independent and professional judiciary in Bosnia and Herzegovina and slowing down of delay of reform process and integration of Bosnia and Herzegovina into Euro-Atlantic structures.

176. Very important reform innovation and progress in judiciary refers to formation of State Court of Bosnia and Herzegovina and State Prosecutor. State court begins to work on 24.01.2003. State court has criminal, legal and appellate departments and determines the number of special councils including council for organised crime, economic crime and corruption. Employed properly with the local as well as the foreign judges. Establishment of State court and the beginning of its work mean a significant overcoming of differences in entity judiciary and legal systems.

During 2004 the Court of BiH had in total 1.742 cases. From this number of cases in process, 69 cases are brought from the year 2003, and in the 2004 1673 cases are received. In comparison with the number of cases in the 2004, 608 cases is inflow during the year 2004, what the percentage increases is 175,2%.

By the end of the year 2004, the Court of BiH solved 1.519 cases.

The Criminal department solved 1.059 cases of total received 1.152 cases, as follows: 294 cases for the prejudgement procedures (Kpp), 195 cases for prejudgement interrogation (Kps), 126 of the first-instance criminal cases (K), 5 cases in criminal procedures against persons under age (Km), 62 cases of extradition (Ex), 5 cases of witnesses protection (Zsv), 287 cases of out of trial (Kv), and 49 cases (Ix).

The Administrative department solved 173 cases of total of 258 cases, as follows: 126 cases of administrative disputes (U), 25 Ur cases, 21 of other legal cases (R), and 1 legal case (P).

The Appellate department solved 163 cases of a total of 258 cases, as follows: 163 cases of the appeals in the cases of criminal procedures (Kz), 58 cases of election appeals (Iz), 16 cases of exceptional legal remedies (Uvl), and 4 cases of appeals on the administrative decisions (Uz).

The most of case backlog is under the Administrative department, 96 cases. This is because this department is also authorized for legal cases, from August 2004.

In this reporting period, 73 cases are received and only one solved. This department also had the largest number of case backlog in the year 2003, 53 cases.

Because 87,2% of the total number of cases are solved, and 11,8% remained unsolved, we can conclude that the Court of BiH was prompt and effective. The number of case backlog is at the level of two months of promptness. The most inflow of cases in this reporting period is achieved within the Criminal department of the Court, and it is on the first instance of criminal department (it is almost five times more than in the year 2003).

177. Within the Court of Bosnia and Herzegovina, the Commission of War Crimes is established, and it should operate during the year 2005. In October 2004 the international donors agreed to achieve the initial funds, which will cover the costs during the first two years of the Commission work. Preconditions for functioning and works of this Commission must be fulfilled, especially providing of the adequate premises for the staff, judges - local and foreign, security measures, judicial police, the state prisons, better witnesses protection, and extension of the special legal regulations. The authority of Bosnia and Herzegovina are very active in this field, and give full support and contribution to the work of the Commission of the war crimes.

The cooperation with International Criminal Tribunal for former Yugoslavia (ICTY) was not successful in the past period and did not given expected results. Still, after more than one year of signature of General Framework Agreement for Peace in BiH and the end of the civil war in Bosnia and Herzegovina, the war crime indicted has not been arrested yet. The special responsibility is on the authorities of The Republika Srpska, which are willing to cooperate with the ICTY, but without results, because this entity arrested and transferred to the International Criminal Tribunal in the Hague only a few of war crime indicted until nowadays. Because of the unfulfilled of these obligations and without concrete cooperation with the ICTY, the numerous actors of the Republika Srpska authorities are dismissed from their positions during the year 2004.

In order to establish constructive cooperation with the ICTY, the authorities in Bosnia and Herzegovina are obliged to provide the full access to the archive, witness protection and arrest of war crime indicted. It should emphasize that the authorities and people in Bosnia and Herzegovina realised that the persistent and constructive cooperation with the ICTY is one of the conditions for total European integration of Bosnia and Herzegovina. The activities directed toward the starting of the wider informative and other campaigns about depolarisation of the cooperation with the ICTY and other courts, that will deal with trials of war crime indicted, demystification of war crime indicted who are consider heroes by the local population.

As the local courts are, also, responsible for the investigation and processing of war crimes and as they can do it after they get the permission of ICTY, in both entities of Bosnia and Herzegovina several war crimes trials are in process. But, according to the observation of the European Committee against Racism and Intolerance/EKRI, it is alarming that the local courts missed to take steps for the more active processing of supposed war criminals, and that the cooperation between courts and policy of both entities is still insufficient, especially in the realisation of arrest orders, which results in no punishment of war criminals.

The Department of the Court of BiH for War Crimes received 59 cases during the year 2004, as follows: 10 KPP-P cases, 3 cases of prejudgement interrogation (KPS), 19 KPV cases, 25 KPZ cases and 2 KPR cases. In total, there were 63 cases within this department during the year 2004.

178. Along with the establishment of cooperation with ICTY, and because of the avoidance of similar happenings in the future, together with the representatives of civil society, the idea of establishment of the Commission of Truth and Reconciliation at the state level is taken into consideration. It could help citizens of Bosnia and Herzegovina to face the past, no matter how painful and hard it is, and contribute the promotion of inter-entities relations. Draft of the Law on Truth and Reconciliation is in preparation. With regard of the fact that the reconciliation can

not be imposed, it is planned to start public debate about these questions in order to provide support to population of Bosnia and Herzegovina for establishment of the Commission of Truth and Reconciliation.

During the year 2004 the Supreme Court had in total 26.881 cases, of which the Supreme Court of FBiH had 19.684 (73%) and the Supreme Court of The Republika Srpska had 7.197 cases (27%).

Of total number of cases, 18.458 cases are transferred from the year 2003 in the reporting period, of which 13.695 cases to the SC FBiH (74%) and 4,763 cases to the SC RS (26%). Among the transferred cases backlog, most are first-instance administrative cases (U) and it is 14.133 cases, of which 10.244 cases are transferred to the SC FBiH and 3.789 cases to the SC RS; 1.52 are revision cases (Rev), of which 869 cases are transferred to the SC FBiH and 683 cases to the SC RS, 1.412 are legal cases on appeals (Uz), of which 1.410 cases in the SC FBiH; 428 are second-instance criminal matters (Kz) of which 393 in the SC FBiH and 35 cases in the SC RS; 346 are second-instant economic legal cases (Pz), all in the SC FBiH, #70- are cases on the request on exceptional testing of judicial ruling (Uvl), of which 182 cases in the SC FBiH and 188 in the SC RS.

In the indicated period, Supreme Courts received in total 8.432 new cases, of which the SC FBiH received 5.989 (71%) and The SC RS received 2.434 (29%).

In the reporting year, Supreme Courts solved in total 9.768 cases what is 36% of the total number of cases, of which the SC FBiH solved 7.401(76%) and the SC RS solved 2.367 (24%).

At the end of the year 2004, there were 17.113 cases backlog in the Supreme Courts, of which 12. 283 (72%) in the SC FBiH and 4.8308 (28%) in the SC RS.

From the previous stated general characteristics about the number of cases in both Supreme Courts, we can conclude that the main problem in work was a great number of cases backlog and the first-instance administrative cases (U) transferred from the previous periods, administrative cases on appeal (Uz) and cases of exceptional testing of judicial ruling in the administrative procedure (Uvl), then a great number of unsolved cases backlog of revision and a big inflow of the same, which results in a great number of cases backlog of this kind at the end of the year 2004, despite the good results in those departments (in the reporting period more cases were solved than the inflow was, except on revisions).

In the year 2004, both supreme courts solved more second-instant criminal matters (Kz) than was the inflow of the same in the relating period, that indicates that the old cases are solved so at the end of the reporting period, the number of cases backlog was less than at the end of the 2003. There are only 24 Kz cases backlog on the SC RS, while the SC FBiH has 237 Kz cases backlog which is 156 cases less than at the end of the year 2003, but it is still a great remnant which will burden the criminal court departments (make the work of the criminal court department more difficult).

In the year 2004, from the total of solved second-instant criminal matters (Kz), the SC FBiH confirmed 46% of the low court rulings, 31% of rulings was altered and 22% of rulings was abolished, while in the same period the SC RS confirmed 61% of rulings of the low court,

7% of ruling was altered, 14% of ruling was abolished, 3% of appeals was rejected and 15% of appeals was solved in other way, which indicates the high-quality of the cantonal, and district courts in their first-instance criminal authorities.

The biggest burden in the work of both supreme courts was a great number of cases in the administrative department, and the situation did not change significantly despite the fact that both courts in the reporting period solved more cases than was the inflow of the same.

It is obvious that the newest amendments to the Law on Courts and the Law on Administrative Disputes will contribute to the unburdening of the SC FBiH work on the first-instance cases of the administrative disputes, which will enable them to direct their personal potentials toward solving the cases and the cases backlog in other departments.

During 2004, the cantonal and District Courts of BiH worked on 82.896 cases, of which 50.982 cases in the FBiH and 31.914 cases in RS. Of this number of cases, 27.265 cases are transferred from the 2003(33%) and 55.631 cases are received in the year 2004.

From the above indicators it is obvious that the biggest problem and burden in the work of the second-instance courts in both entities were the cases backlog from the previous period, which are transferred in 2004 and it is especially explicit in the second-instance civil cases (Gz I Pz).

In 2004, 61.085 cases are solved in all court departments, which is 74% of all cases in process. Having in mind that 55.631 cases in process were received in 2004, we can conclude that the second-instance courts could be more prompt and effective if there were no such a big number of cases backlog from 2003. In the reporting period these kinds of courts solved more cases than was the year inflow, which indicates the more effective work of the courts in the reporting period in relation with the previous periods, as well as the positive effects of the judiciary reform.

At the end of the year 2004, there were 21.811 cases backlog left and they were transferred in the 2005, which is 5.454 cases less than at the end of the reporting year 2003 and which also indicates the increase of the work of these kinds of court I the reporting period.

Otherwise, all courts of this rank underline that according to the new Criminal Procedure Code (first-instance criminal procedure) and the new Law on Judicial Procedures (cases on slander) trials last shorter than earlier that courts are concentrated on the appointment and running of the cases, making decisions, and therefore party principles of establishing of the material truth, new ways of witnesses interrogations, insurance and presentation of the evidence are became viable.

General remark and characteristics of all courts of this rank is that at the end of this reporting period there are good results that can be recognised as the consequences of the successful implementation of judicial reform.

All courts are accepted new and shorter legal terms-deadlines, in the criminal department, for dealing with indictment, delivering of indictment, appointing of date of

summons for declaration and acknowledgment of one's guilt, appointing of the main trial and it is especially emphasised that all court rulings are brought within legal deadlines and all of these things speeded up solution of first-instance criminal matters, so the result of this is the less number of cases backlog of this kind at the end of this reporting period in relation to the end of the year 2003.

All courts emphasise prompt dealing with detention cases within legal deadlines, and according to the legal conditions for determination or continuation of detention, so that we can recognise persistent implementation of new legal regulations and deadlines in this field.

The cause why there are still cases backlog, lies in the fact that the new legal regulations does not allow trial in absence of the defendant, that defendant are unavailable to the local courts, that the neighbouring countries are not ready to take over prosecution of defendant with dual citizenship in accordance with the signed agreements etc.

During the year 2004, all courts of first-instance and municipal courts had in total 1.272 682 cases, of which 19 courts of first-instance in RS had 291.754 cases and the 27 municipal courts in FBiH had 622.862 cases. Of the total number of cases there were 475.418 cases from the 2004, of which RS had 99.352 cases and FBiH 358.066 cases.

During the year 2004, 815.264 new cases were received, of which RS received 192.402 cases and FBiH 622.862 cases.

At the end of the year 2004, 639.401 cases were solved, of which 170.482 cases were solved in RS and 468.919 cases were solved in FBiH. In these reporting period 633.279 cases backlog remained, of which 121.270 cases backlog remained in RS and 512.009 backlog cases in FBiH. Most of the cases belonged to the executive department, and to make it clearer we give you an example of the Municipal court in Sarajevo that received about 200.000 cases of the public utilities services, during the 2004.

With regard to the deadlines established by the Criminal Procedure Code, it is noticed that the deadlines concerning delivery of prosecution acts, discussion about prosecution, detention cases, declaration of one's guilt, consideration of acknowledgement of one's guilt and appointment of court proceedings for passing the sentence are obeyed. Deviations of deadlines established by the law are met in making decisions, and as the most frequent reason are mentioned the complexity of cases, great number of defendant, great number of criminal-legal actions etc.

Considering deadlines established by the Law on Legal Action, it is noticed that deadlines for delivering appeal, appointment of the preliminary dates of summons and main trials mainly could not be obeyed. As the most frequent cause for that it is mentioned a great number of cases which are in charge of one judge in the legal department, kind and the number of evidences which have to be drawn and that objectively it is not possible during the one or two hearings before the main trials, absence of the experts or refusal of giving the report because of the unpaid costs, illiteracy of the parties and their attorneys etc.

The particular problems are the cases in which the public organisations (electric power industry, public utilities, heating plants etc.) are the prosecutors or the seekers of execution because of the unpaid costs for their services, and the courts are unable to solve these cases mostly because of the incorrect addresses of the executors.

Regarding the Law on Legal Actions the courts are mostly emphasised difficulties in obeying-meeting deadlines bind by the delivery of the appeal on the answer, appointment of the preliminary appearing in court and the main trial.

Some institutes like mediation and public notary still did not become viable, although the legal presumption for them is fulfilled.

Finally, there are still some problems concerning establishment and delivery of the appeal against a decision, holding preliminary appearance in court etc.

Difficulties in implementation of the Criminal Procedure Code refer to the equalisation of interpretation and implementation practice of some institutes. We can see the need for the further acquiring of knowledge and skills for judges, as well as prosecutors and defending barrister in order to meet the established obligations.

There are still some ambiguities about detention setting, legality of gathered evidences, providing of evidences, not providing of evidences according to official responsibilities etc.

Difficulties which the court meet refer to its unclear role in the procedure in which the committer of the action is the mentally incompetent person, lack of the prison premises for accommodation of these persons, lack of the legal procedure for the treatment of these persons in the Center of Social Work, lack of the rooms for accommodation and curing of these persons dangerous for the surrounding.

- In the 2004, the Prosecutor's Office dealt with 2.556 cases, of which 633 cases were transferred from the 2003, and 1.923 new cases are received in the 2004.

In the 2004, investigation is conducted in 303 cases, or in other words against 576 persons. The investigation is not ended in 81 cases, or in other words against 186 persons. The Prosecutor's Office in BiH decided not to conduct an investigation in 111 cases, or in other words against 142 persons, and decided to stop investigation in 35 cases, or in other words against 46 persons.

The charges are brought against 378 persons in 233 cases. Of this number, the charges with criminal order are brought in 63 cases, and the agreement of guilty confession is concluded 53 cases. There was one unconfirmed indictment in the reporting period.

- At the end of the year 2004, in total 485 cases are solved.

In 2004, the investigation is conducted in 303 cases, or in other words against 576 persons. Of this number, the investigation is conducted against 3 persons in cases which refer to the criminal actions against humankind and values protected by international law, the investigation is conducted against 201 persons in cases which refer to the criminal actions against economy and the unified market, and investigation is conducted against 73 persons in cases which refer to criminal acts, agreement, association and organised criminal.

The investigation has been stopped in 35 cases, or against 46 persons. Of this number investigation has been stopped against 1 person in cases which refer to criminal action against humankind and the values protected by international law, against 36 persons in cases which refer to criminal actions against economy and unified market and against 2 persons in cases which refer to criminal actions, agreement, association and organised crime.

At the end of 2004, the investigation has not been stopped in 81 cases, or against 186 persons. Of this number, investigation has not been stopped against 1 person in cases that refer to criminal actions against humankind and the values protected by international law, against 73 persons in cases that refer to criminal actions against economy and unified market and against 19 persons in cases that refer to agreement, association and organised crime.

In the year 2004, 326 charges have been brought against 474 persons in 233 cases. Of this number, the charge has been brought against 1 person in cases which refer to criminal actions against humankind and the values protected by the international law, against 410 persons in cases which refer to criminal actions against economy and unified market, and against 63 persons in cases which refer to criminal action, agreement, association and organised crime.

In total number of brought charges, there were 63 charges with penalty order, and 53 agreements of guilty confession.

Terms defined by the Criminal Procedure Code, and especially terms, which regulate detention and its duration, duration of the investigation and terms for confirmation of the charge, are obeyed by the Prosecutor's Office.

There are some defects and understatements of some provisions of the Criminal Procedure Code of BiH, as of the provisions on decision on charge-in the case of refusal of confirmation of all or some charge points of previous procedure, there is no possibility to make an appeal, and negotiation about guilty - it is not defined in phase of the procedure the suspect or indicated can negotiate with the prosecutor about the conditions of guilty confession, and to whom judge (for the previous procedure or the previous interrogation) the agreement on guilty confession has to be delivered, and who will accept it or refuse it.

There were in total 15.334 cases in all prosecutors' offices in the Republika Srpska (five district prosecutor's offices and the Republic Prosecutor's Office) in the reporting period, of which 6.523 cases were transferred from the previous years, and 8.811 new cases have been received in the 2004.

In the 2004, the prosecutor's offices in The Republika Srpska have conducted the investigation in 5.744 cases. The investigation has not been conducted in 5.337 cases. The prosecutor's offices has decided not to conduct the investigation in 617 cases, and they have decided to stop-drop the investigation in 811 cases. 495 cases were resolved in other way.

The charge has been brought in 5.007 cases. Of this number, the charge with penalty order has been brought in 2.664 cases and the agreement on guilty confession has been concluded in 575 cases. There were 12 unconfirmed charges in the reporting period.

At the end of the year 2004, 6.832 cases have been solved, 8.502 cases backlog have remained and it is 55,44% in relation to the total number of cases.

Republic Prosecutor's Office discussed 33 initiatives for establishing a claim for protection of legality in cases on extraordinary legal remedies. In the criminal procedure, 24 initiatives for making a request for the legality protection have been discussed and in 3 cases the request is made. At the end of the 2004, 2 requests are accepted and one still is not solved. There were 9 initiatives of this kind in the administrative procedure and in one case the request is submitted.

Finally, during the 2004, new prosecutor's offices with the special departments and new registration forms have been established.

- In 2004, charges against 31.490 persons have been brought in the Prosecutor's Office in the Federation of BiH (ten cantonal prosecutor's offices and the Federal Prosecutor's Office. Of this number charges against 10.707 persons have been transferred from 2003.

In the last year, the Prosecutor's Office in the Federation of BiH has conducted against 22.080 persons. The investigations against 10.055 persons are finished and they are not finished against 12.025 persons. The prosecutor's Office decided to stop investigations against 1.558. The investigations against 455 persons have been finished or given to someone else.

In the 2004, the charge has been brought against 9.072 persons. Of this number, charges with the penalty order have been brought against 3.394 persons and the agreement of guilty confession is concluded against 775 persons.

At the end of 2004, there remained only charges against 15.319 persons. Charges against 140 persons have been totally refused, against 8 persons partly refused and against 11 persons charges have been dropped.

- In 2004 the Court of First Instance of Brcko District had 63.704 cases. Of this number of cases, 11.165 cases have been transferred from the 2003, and 52.539 cases have been received in 2004.

In 2004, 52.429 cases have been solved in all court departments, which is 82% of all cases in process. Having in mind that in 2004 the inflow was 52.539 cases, the court has not solved, in relation with the inflow, only 110 cases.

At the end of 2004, there were 11.273 cases backlog and they were transferred in 2005, and it is 338 cases less than at the end of the reporting 2003 year, in which the court had 2,537 cases less than in 2004.

In total there were 567 cases in the Prosecutor's Office of Brcko District of BiH, of which 169 cases have been transferred from the previous years, and in 2004, 398 new cases have been received.

During that period, the investigation has been conducted in 856 cases. The investigation is not finished in 297 cases. The Prosecutor's Office has decided to stop investigation in 119 cases, and 42 cases have been solved in other way.

The charge has been brought in 398 cases. Of this number, the charge with penalty order has been brought in 242 cases, and the agreement on guilty confession has been concluded in 70 cases. There were no unconfirmed charges in the reporting period.

At the end of 2004, 400 cases have been solved, 167 cases backlog remained, and it is 29,45% in relation with the total number of cases.

During the there were 34 cases in the procedure on appeal of the Public Prosecutor's Office. The appeal has been completely accepted in 6 cases, partly in 4 cases and dropped in 18 cases. At the end of 2004, 6 cases backlog on appeal remained.

Within the complete reforms of judiciary in Bosnia and Herzegovina, and according to the Law on High Court and Prosecutor's Council of BiH, unique High Court and Prosecutor's Council of BiH begin to operate in the middle of June 2004. It already has prepared its strategic system for the period from March 2005 to December 2006. The importance of the powerful and independent judiciary is emphasised in this plan, through identification of priority aims in Bosnia and Herzegovina and the ways for their realisation.

B. Human Rights Commission

179. By the General Framework Agreement for Peace in Bosnia and Herzegovina (the "Dayton Peace Agreement") and because of the specific structure of Bosnia and Herzegovina and human rights violation, a new kind of judicial body is established to promote and protect individual human rights, which is called Human Rights Commission. This body consists of the institution of Human Rights Ombudsman of Bosnia and Herzegovina and the Human Rights Chamber, which has all legal powers. This institution, which partly consist of international staff, should ended its work in the 2000, but because of great number of cases, The Chamber's Mandate is prolonged until the end of 2003. But because of great number of cases backlog within the Constitutional Court of Bosnia and Herzegovina, the Human Rights Commission is established with the mandate to deal with and to bring to an end these cases.

Human Rights Ombudsman of Bosnia and Herzegovina

180. Human Rights Ombudsman of Bosnia and Herzegovina is established by the Constitution of Bosnia and Herzegovina, under Annex 4 to The General Framework Agreement for Peace in Bosnia and Herzegovina from 14 December 1995 and further arranged under Annex 6 of that Agreement. On that legal base, this institution has began to operate in the 1996 in the two offices, with the seat in Sarajevo and the main Office in Banja Luka, and from the end of 2000 with the branch-office in Brcko District of BiH. The institution is set up in order to protect the rights and liberties of natural and legal persons and to promote good governance and the rule of law in Bosnia and Herzegovina. For that purpose the Institution has analysed and is still analysing individual complaints, investigations and undertaking different active measures.

At the beginning of 2001, the Law on the Human Rights Ombudsman of Bosnia and Herzegovina came into force, which is adopted, on both houses of BiH Parliament. After that the Institution came under the full responsibility of local authority, because the foreigner chaired this Institution until 31 December 2003. On 1 January 2004 he is replaced by three BiH citizens in accordance with relevant provisions of the existing Law. So the obligation for “establishment of multi-ethnic Ombudsmen” on the state level is fulfilled.

The Ombudsmen institutions also exist on the entity level. It consists of three Ombudsmen, one per each constitutional people. It is true that in The Republika Srpska there is one Ombudsman with two Deputies from the 01.01.2005. It means, that nowadays there are three different institutions in BiH with responsibilities, which partly overlap, as well as three different levels of material compensation. Currently, the Law on the Human Rights Ombudsman of BiH is in the phase of preparation, by which the operation of this institution will be defined, taking into account the elimination of all inconsistency and irrationality, which have appeared in the past period.

Ombudsman of the Federation of Bosnia and Herzegovina

181. The Ombudsman of the Federation of Bosnia and Herzegovina is established as the institution, and they are personally appointed at the beginning of 1995 by the OSCE Chairman. They are operating their constitutional activities until 30.07.2002 in the so-called transitional period and engagement with political, logistic and financial support of OSCE. On the base of the Memorandum of understanding, agreed between the OSCE Mission in BiH and the Government of the Federation of BiH, as well as on the base of the Law on the Human Rights Ombudsman of Federation of Bosnia and Herzegovina, the Parliament of the Federation of BiH appointed the Ombudsman with the four years mandate. The Constitution of Federation of BiH in its provisions B.1.2. has defined position of the Ombudsmen.

The Parliament adopted the first year's report about the activities of the Ombudsman for the year 2002. According to this report, most of the complaints referred to the protection for the real property rights. The second biggest group refers to the received complaint of citizens for protection of their rights to flat.

The right to employment has also been very often violated and discriminated on the base of ethnical and political belonging. The institution of “waiting” has been very often misused.

As for the issues of personal security and privacy, a great number of citizens, mainly minority nation member on a certain area, appealed to the Ombudsman for protection of their rights. The reason for that is the impromptness of the Federal police, which was mainly one-national (depending on the canton) and under direct control of political parties.

The right of children to learn in mother tongue has not been available to all children on the territory of Federation of BiH.

Several claims referred to the guaranteed freedom of expression and press.

The right to social security and pension has been also violated, and because of that citizens appealed to the Ombudsman very often. The great problem to the citizens was the right to obtaining of different certificates, which were necessary to be submitted in order to realise the right on pension.

182. Their constitutional function of protection of liberties and rights of all citizens and human dignity, the Ombudsman executed also in the line of implementation of the conclusion of the conference of the Council for Implementation of Peace to Bosnia and Herzegovina, held in Bonn in December 1997, then the session of the Administrative Board on the ministerial level held in Luxemburg in June 1998, and finally the Madrid Declaration from December 1998, which especially emphasised the rule of law and functioning of the legal procedures, and the return of all refugees to their homes.

Return of refugees and displaced persons is closely connected with the implementation of the real property law. From April 1998, the monitoring of implementation of the real property laws was directed to assessment of achievements of the citizens right to return their flats, on which they have tenancy right, then the right to return the real properties, the right to purchase the flats on which they have tenancy right, as the significant segment of privatisation.

Process of establishment of executive authority bodies, after the local elections held in the Federation in 2000, was running in different ways. It especially referred to the establishment of the multi-ethnic bodies and offices. The great problem in establishment and functioning of the governmental authority was in Herzegovina-Neretva Canton and in the town of Mostar.

With full involvement of the IPTF, the process of the reorganisation of the police and its establishment in accordance with the international standards has started earlier in all the levels from the Federation to the municipalities.

In the Federation of BiH, the police is organised on the canton levels.

Right to personal and property security becomes more and more important in operation of the Ombudsman institution, because of citizens fears due to the increasing criminal.

In the first five years of existence, the Ombudsmen had in total 29.707 appeals, on the base of which the investigation of the possible violations of human rights is conducted.

The base and tendency of both the Constitution of Bosnia and Herzegovina and the Constitution of the Federation of BiH is the establishment of the multi-ethnic society that should be rooted in the altogether effort for promotion of democratic values in the equal citizens right who have to share the responsibility for life in the Federation of BiH.

The positive improvements in relation of the authorities toward the Ombudsmen are also obvious in readiness to cooperation, which showed both human right commissions within houses of the FBiH Parliament.

The right to employment, recognised by the Article 6 of the International Pact on economic, social and cultural rights, achieved only 408.000 citizens during the 1999. The level

of this right is more unsuitable, having in mind that in the out-economy sector works more than 92.000 employees, what is almost on the level of 1991, while in the economy there are 300.000 employees less than in 1991.

The most vulnerable category of citizens are unemployed, workers on waiting and retired persons.

The retired persons are still on the top of the above category. Their number has increased from 200.000 in the year 1998 to 256.000 in the year 1999. It is an increase of about 100.000 in comparison to the year 1991. Besides that, about 100.000 of the retired persons have pension of about 115 KM.

One number of children has not been included in the primary education at all. Such are children of displaced persons, Roma children with unknown or even permanent residence, disabled children, socially vulnerable children, delinquent children, and younger children in families with more children.

According to the information, the Ombudsmen had about 112.000 written and verbal contacts with the citizens during the year 2000. They received 19.414 appeals, on 10.896 cases they conducted investigations for 23.220 persons whose human rights have been violated. In the same year 7.628 appeals are solved, including the appeals from the previous years. Of that number 51% of cases are solved positively, where the recommendations by the Ombudsmen were accepted and returned the violated rights of the complainers. The number of accepted recommendations on the received appeals in the year 2000 is still increasing and is currently about 59%.

183. The General Declaration on Human Rights emphasise the principle of equality under the law, assumption of innocence and the right to fair and public trial on the independent and impartial Judiciary established by laws as the most important in realisation of human rights. In the Universal Declaration of the Independence and Impartiality of Judiciary is stated that the Independence of Judiciary will be guaranteed by state and responsibility of governmental and other institutions is to respect and protect the Independence of Judiciary.

From the year 1998, process of judicial system reform in Bosnia and Herzegovina has begun on the base of UN Resolution 1148 from 16 July 1998. Later, by the Madrid Declaration of the Council for Peace Implementation, the term is defined by 30 June 1999 when the Parliament has adopted the laws in order to established independent and impartial judiciary. The Laws on Judicial and Prosecutor's Function in the Federation of BiH are imposed by BiH High Representative, and this law came into power on 17.05.2000.

The percentage of realisation of the individual cases during the first year was under 30%, the next year reached 50%, and in the year 2001 reached the level of 74,84%. In total 5.195 of appeals were from the field of violations of the rights to the properties and rights to the home flat.

By the end of 2001 in the Supreme Court of Federation of BiH there have been left 9.592 unsolved cases, from which there are 8.503 cases in responsibility of the Administrative department (administrative disputes).

Table 7

Summary of received and resolved appeals

Year	1995	1996	1997	1998	1999	2000	2001	2002	2003	Total
Total number of appeals	1 747	3 861	5 733	8 277	9 118	19 414	16 682	17 219	14 444	96 495
Resolved appeals			16.0%	19.4%	25.8%	33.0%	38.3%	41.2%	37.8%	

On the base of the Memorandum of Understanding between OSCE and The Federation of BiH, the Federation of BiH has for the first time after its establishment (January 1995) during the year 2002 overtaken the full responsibility for functioning the Ombudsman Institution, and the Parliament of The Federation of BiH appointed three local Ombudsmen, in line with the Law on Ombudsman of The Federation of BiH.

Increase of number of appeals comparing to the year 2002 is especially evident in the field of social rights: violations of the rights to employment have been increased for 35% (in the year 2003 it is received 875 appeals in which 1.246 citizens requested achievement the right to employment), while 1.298 citizens appealed for violation of the right on the health care and social rights or 532% more than during the previous reporting period, in which only 244 citizens submitted 302 appeals.

The Ombudsmen have not accepted 8.332 appeals from citizens, what is 57,6% of the total number of appeals, what is the smaller percentage than in the year 2002, when there has been accepted 62,3% of appeals.

184. There was alarming number of cases backlog at the end of 2003, because there were thousands of cases backlog lying in the court archive. In order to illustrate, we give some indicators.

- Cantonal Court in Sarajevo - 4.514 cases in total;
- Municipal Court in Sarajevo - 256.061 cases in total, of which 200.000 cases refer to the executive cases that are waiting for the forced realisation (greatly because the claims of the public and utility service). Here we stress data “about 200,000 cases”, because in the officially submitted report there is such statement, and it is possible to clearly conclude that the Court does not know how many cases backlog there are in fact;
- Cantonal Court in Mostar - in total 3.272 cases;
- Court for the central zone of Mostar - in total 444 cases;
- Municipal Court in Mostar I - in total 5.446 cases;
- Municipal Court in Mostar II - in total 2.734 cases;

- Municipal Court in Capljina - in total 3.598 cases;
- Municipal Court in Konjic - in total 3.441 cases;
- Municipal Court in Citluk - in total 2.185 cases;
- Cantonal Court in Bihac - in total 3.021 cases;
- Municipal Court in Cazin - in total 6.954 cases.

Also, it is worrying number of the cases backlog in the Supreme Court of The Federation of BIH. At the end of the year there have been left 14.696 cases backlog, from which 587 cases in the Criminal department of the Court, 2.272 cases in the Civil department, and 11.836 cases in Administrative department. In comparison with the year 2002, it is increase number of cases backlog for about two thousand, especially in the department of administrative cases.

From these data it is evident that the worst state is in the Administrative department of the Supreme Court of The Federation of BIH. Number of unsolved cases, which are old several years, is worrying: in this Court there are 1.856 cases from the years 1998, 1999 and 2000.

The previous data show that in the mentioned reporting period 2.349 citizens submitted their new appeals to the Ombudsman Institution: 1.629 cases were solved in the short procedure and 550 cases in the regular procedure, from which number 169 cases have been recorded in the year 2004.

Table 8

Statistics of received and resolved cases

Total number of cases in processing from 01.01.2004 until 27.05.2004 is as follows:	3 084
Number of cases carried over from the year 2003:	735
Number of received cases until 01.01.2004:	2 349
From this number, there are resolved cases:	2 179
Case backlog in total	905
From 01.01.2004 until 27.05.2004 issued Recommendations by the Ombudsmen	14

For illustration, we quote these data: on 31.12.1999 in the The Federation of BIH institutions for serve the criminal sentences there were in total 883, and 1.181 persons who are serving the sentences on 30.09.2000, what is the increase of 34%. The number of persons who are serving the sentences for the criminal acts or offences is in permanent increase. So, in the next few years one can not expect a decrease of the custodial sentenced persons who are directed to prisons on serving the sentences for the criminal sanctions, but contrary - one can expect increase of such persons.

- **Department for Underage People**

185. In the Zenica Prison, the Department for the Underage is located in the special Pavillion, separated from the others. On serving the sentences in this Department there are people younger than 23 years. The designed and provided capacity of this department is for 32 under-age persons, with 4 beds in one room. However, this capacity has been damaged, because in this department on the 03.10.2000 there are 46 persons serving the sentences, of which there are 35 Bosniaks, 3 Serbs, 3 Croats, 2 Albanians, 1 Roma and 2 others. This Department has all the necessary professional staff for retraining and it is provided the working therapy, primary education and secondary education in the mixed craft school, which currently attend 12 underage. The main problem in this Department is the greater number of the prisoners than there is designed capacity. In this way, the standards of minimum space defined by the law are damaged, while the sanitary facilities are the same as in the other buildings of the Zenica Prison.

- **Department for security, compulsory psychiatric treatment and health care in the public health facilities**

186. It is known that before the civil war this security measure had been performed in specialised and for that purpose designed the Psychiatry in Sokolac (The Republika Srpska), so nowadays there are no this kind of health care facility in the Federation of Bosnia and Herzegovina. During the 1996 this kind of department is established within the Zenica Prison, but it is only an improvisation, because this department does not fulfil the minimum conditions for this category of people, who primarily need health care. The Department is situated in a special, smaller pavilion with only three rooms for patients and several rooms for health care and medical staff. The capacity of this department is 40 patients and there were 56 patients on 13.10.2000, of which there are 50 Bosniaks, 2 Serbs and 4 Croats. By accommodation of a larger number of patients than it is designed capacity, already bad conditions became even worse.

Chart No. 3

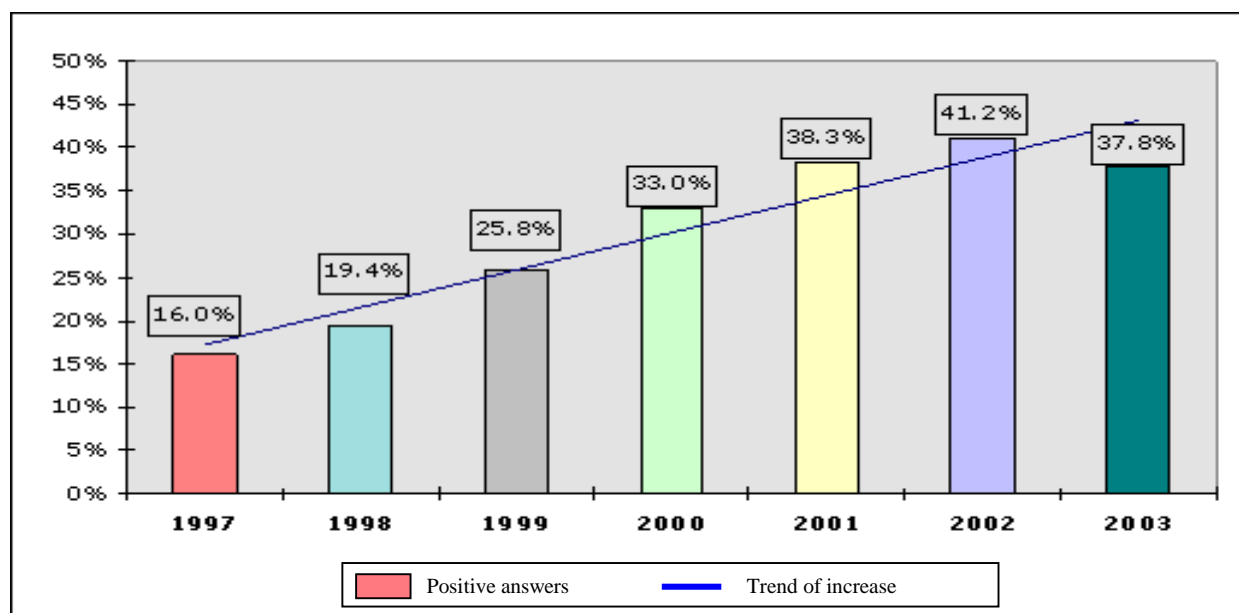


Chart No. 4

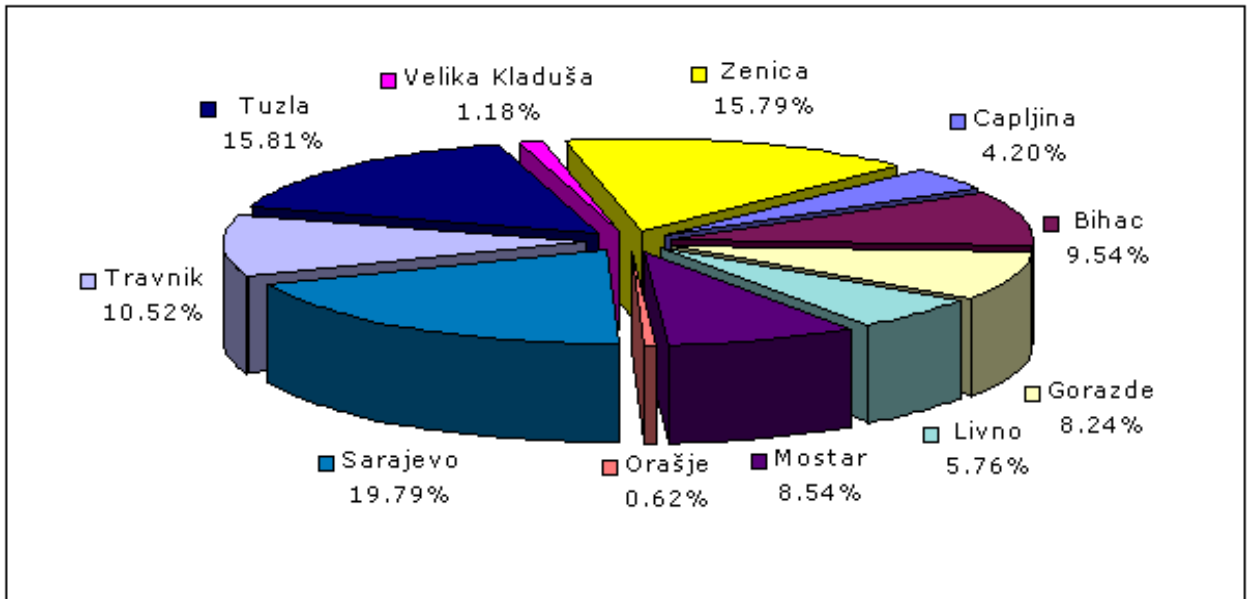


Chart No. 5

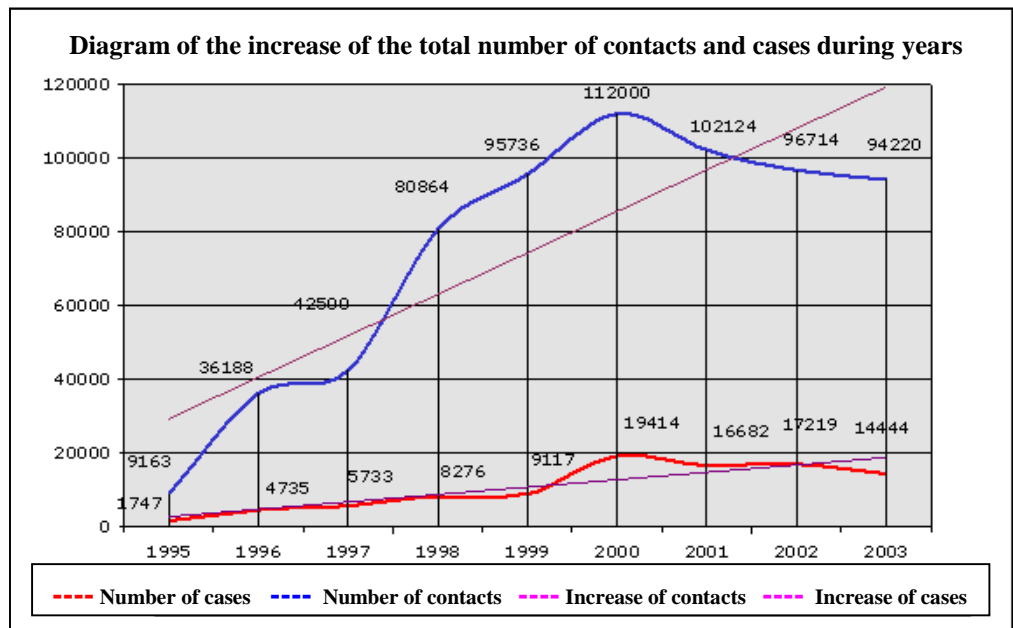


Chart No. 6

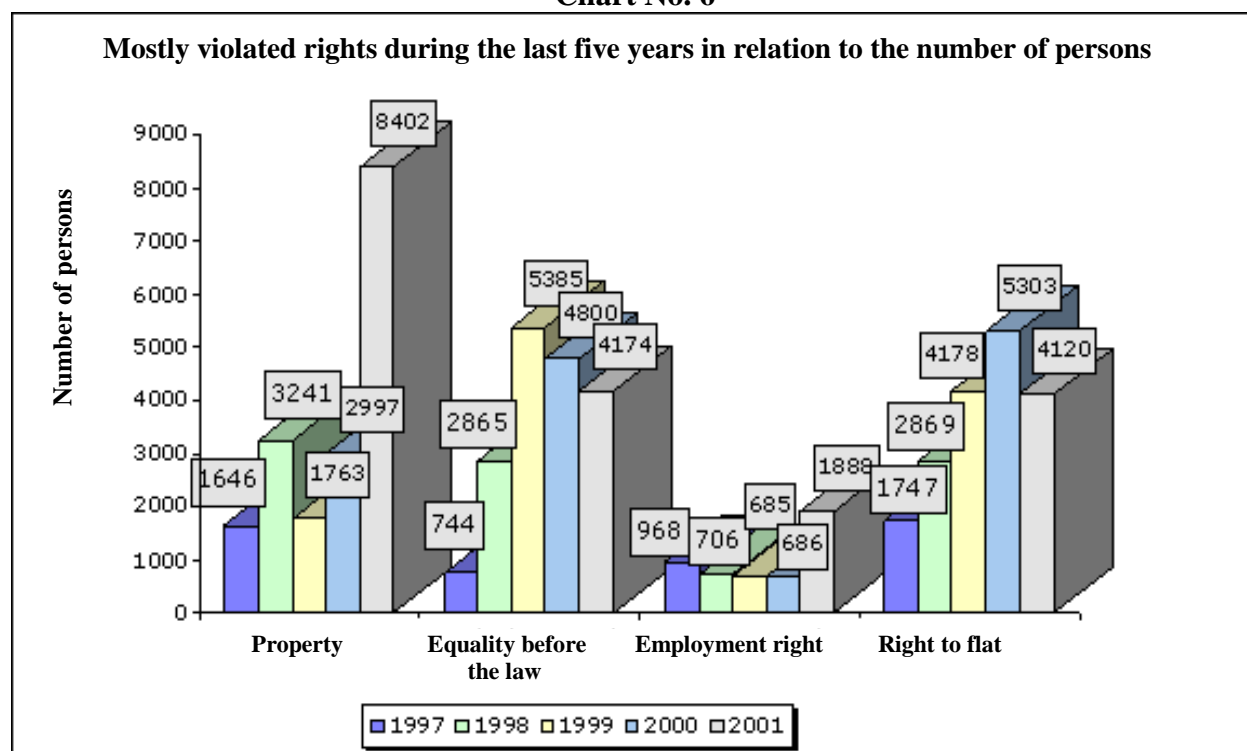
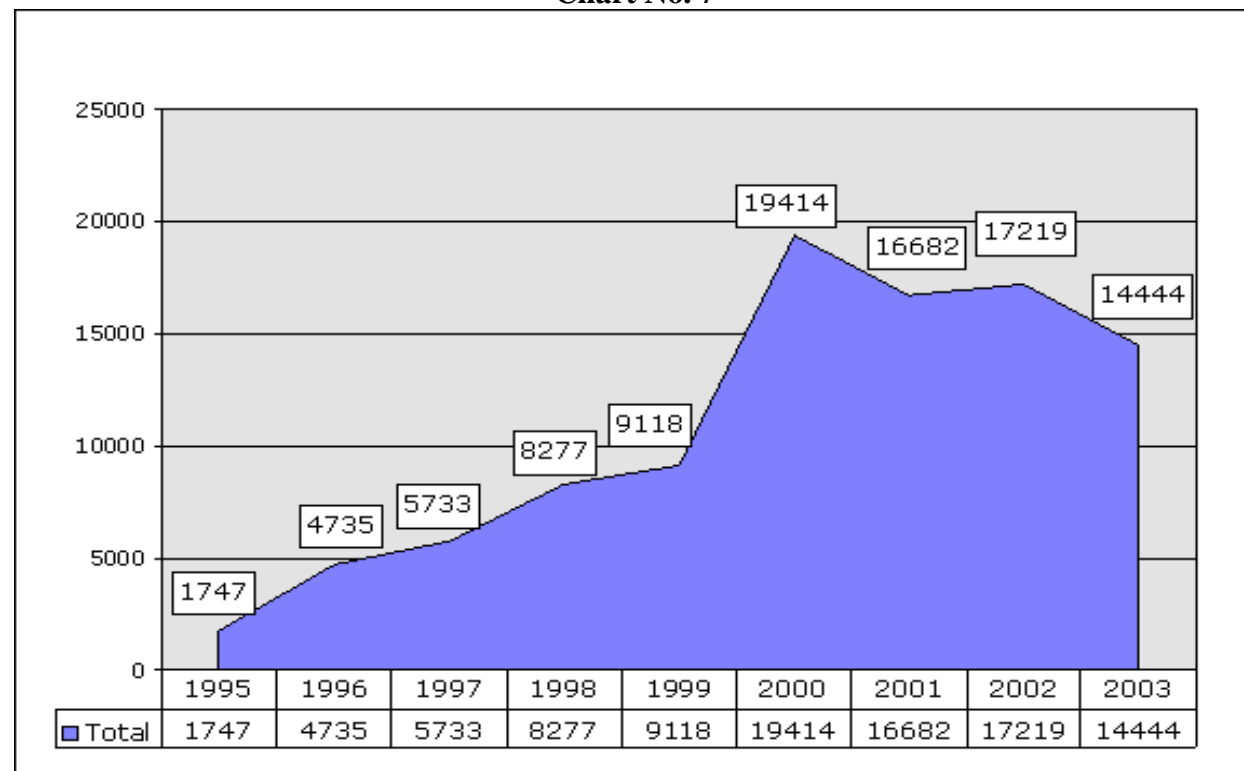
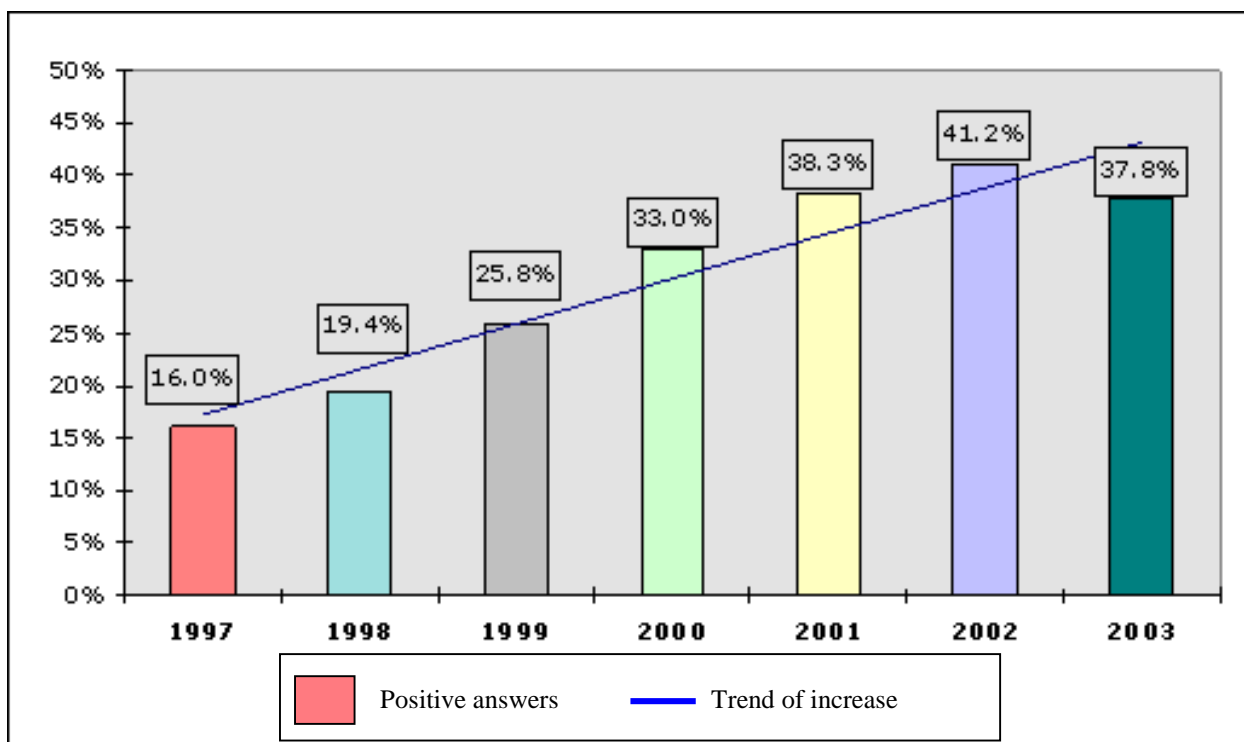


Chart No. 7



According to the presented data it could be stated that in the period from the year 1995 to 2003, in total 96.495 cases were recorded.

Chart No. 8



Source of data: Reports of the Ombudsman of the Federation of BiH.

Ombudsman of the Republika Srpska

186. As one of the mechanisms for protecting and realisation of citizens fundamental rights and liberties, the Ombudsman of The Republika Srpska are established. The operation of the Ombudsman of The Republika Srpska is established and defined by the Law on the Ombudsman of The Republika Srpska that is adopted in the year 2000 and published in “the Official Gazette of RS” No 4/00.

The authorities and responsibilities of the Ombudsman of The Republika Srpska are defined by the Law on Ombudsman of RS. The Ombudsman is responsible to receive, monitor and investigate the cases of the violations of human rights and liberties committed by any kind of state body or organisation which are performing public operations, as well as the military administration bodies, security and secret services, and cases of arresting (police, prisons) and to propose appropriate individual and general measures or both. The Ombudsman can propose amendment to the law and other regulations, which provisions could cause discrimination and violation of human rights and liberties.

The Ombudsman is authorised to investigate cases of the poor functioning of judicial system, and to propose individual and general measures.

The Ombudsman can bring specific cases before the Constitutional Court of The Republika Srpska.

The cases concerning the violation of human rights, the Ombudsman can forward to the judicial authorities in Bosnia and Herzegovina responsible for the human rights.

The Ombudsman primarily deals with specific problems, which the individual has, in relation to the authority bodies.

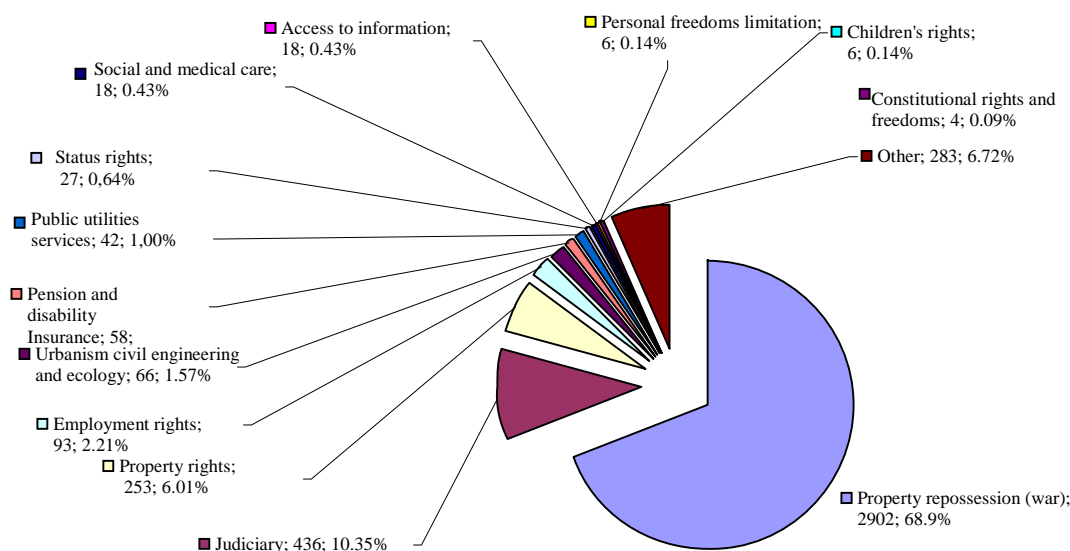
The Ombudsman acts on the received appeal or to the official responsibilities.

If there is any weakness in the system of decision making, the Ombudsman can recommend the amendments to the legal decisions or criteria, which are used during decision making in order to prevent discrimination or violation of the human rights in the future.

187. Taking into account appeals which refer to judicial operation, citizens and legal persons were mainly complaining on judicial operation slowness or violation of human rights as provided in the Annex 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The whole situation in the judicial system of The Republika Srpska is still unsatisfactory especially concerning the promptness. The Ombudsman authorities include the responsibility to investigate the cases of poor functioning of the judicial system in The Republika Srpska and recommend appropriate individual or general measures or both. But the Ombudsman has not investigated in the past period the causes of bad functioning of the judicial system, nor has given recommendation for situation improvement because of the ongoing judicial system reform, carrying out by the international community and the great positive improvements in the judicial system are expected from it.

Chart No. 9



The Supreme Court received more than 3.500 appeals only in the cases on appeal in administrative dispute as one of the court authority. These appeals are not possible to be solved soon.

In the year 2003. number of appeals increased, referring to judicial operation, in comparison to the number of appeals received in 2000.

During the year 2003, 3.028 written complaint are made, and 342 cases backlog are transferred from the year 2002, so there were in total 3370 of appeals to be solved in the 2003. In comparison with the 2002, when there were 4212 appeals to be solved, it is 842 appeals less. The great decrease of number of appeals was in the Department for repossession of property left during the war. So, there were 2902 claims for property repossession in the 2002. and 878 claims in the 2003. This is the result of bringing the property repossession process to an end, as well as solution of the cases in chronological order by the Ministry for refugees and displaced persons. But the number of appeals referring to the judicial operation, violations of property rights, pension and disability insurance, social and medical care, employment's rights etc are quietly increased. Less number of made claims for the individual cases of human rights violations gave more space for the Ombudsman of The Republika Srpska to act on the official responsibility, as well as for the other activities stated in this report.

Until the end of the 2003. the procedure on 2846 claims is ended (85%), while the procedure on 524 claims remained unsolved, and the procedure on them will be continued in 2004.

Courts are mainly responded on time on the intervention of the Ombudsman of The Republika Srpska and dealt with those cases making the summons -appearances in court and undertaking other actions.

During the year 2003, 452 claims in total which refer to violation of human rights from the following fields: social and medical welfare, pension and disability insurance and employing rights had been processing in the Ombudsman of The Republika Srpska, which is 15% of the total number of claims delivered to the Ombudsman of The Republika Srpska in the 2003. This number is a quite larger than in the 2002, when only about 2% of claims from this field had been processing. By analysing of received claims it can be noticed that the workers rights and the social problems in general has became especially presented in the 2003 from the aspect of violations of recognised rights. A great number of people contacted the Ombudsman of The Republika Srpska because of the cancellation of work contract. The process of privatisation in many cases resulted in the dismissal of the great number of worker without any social assistant. Besides that, some employers have not fulfilled their obligations towards the workers, while some other employers illegally dismissed the previous workers and employ new ones. The investigation made by the Ombudsman showed that great number of companies do not pay all the necessary contributions to the pension, disability, social and medical insurance, and because of that the workers are not able to use necessary social and medical care and to realise their pensions. Some citizens contacted the Ombudsman of The Republika Srpska because in many cases the companies had not made payment of their salaries, in some companies even more years. In such cases the workers were needed to complain to the courts in order to realise their basic rights. The judicial procedures lasted too long, even for several years. In the field of

employment disputes, during the year 2003, the Court of First Instance in Bijeljina had 91 new cases, and the Court of First Instance in Zvornik had 93 cases. On 31.12.2003 the Court of First Instance in Doboj had 361 cases backlog in total in the field of employment disputes. There are recorded some workers claims to works of the syndicate. According to the their opinions, the syndicate has no appropriate power and in some cases no readiness to protect the right of their members. Because of such a situation, the workers often decided to make road blockades, hunger strike, and even the threat to commit the suicide.

Chart No. 10

Statistical data

Comparison of years' inflow of appeals per field

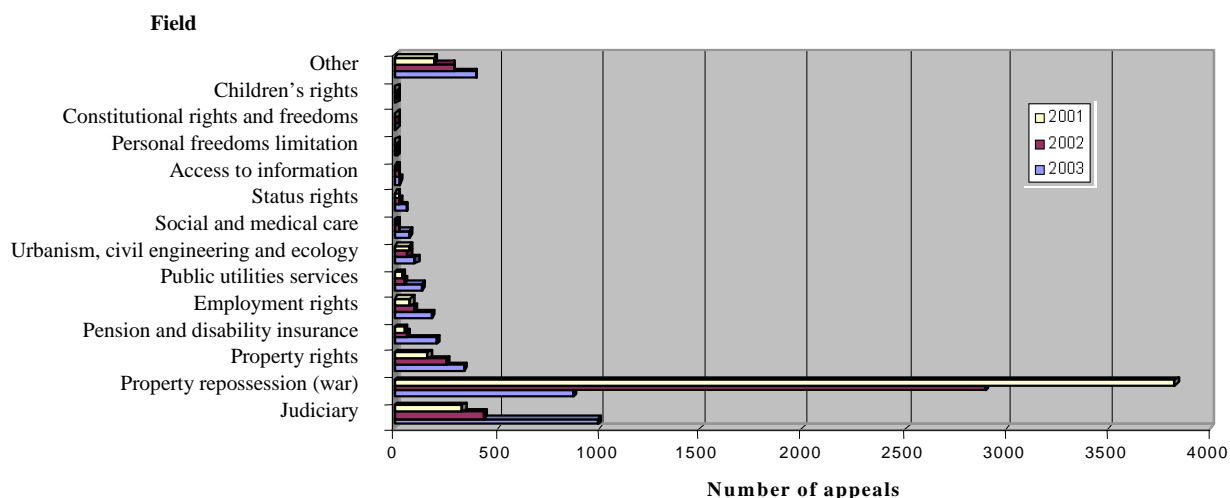


Chart No. 11

Operations per appeals during the year 2003

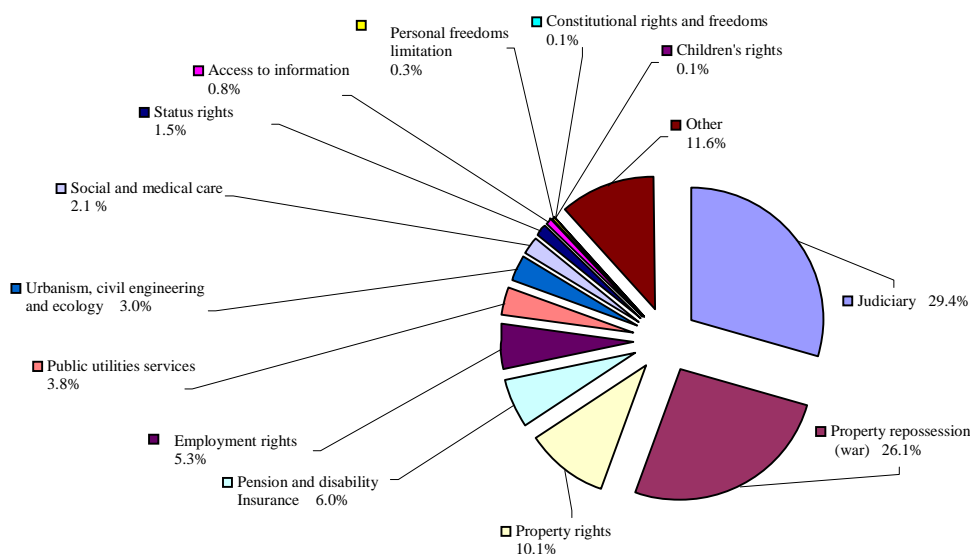


Table 9
Structure of appeals in the years 2001, 2002 and 2003

No.	Structure of appeals	2000	%	2001	%	2002	%
1.	Property repossession	3 826	80.19	2 902		878	
2.	Judiciary	333	6.98	436		991	
3.	Property rights	163	3.42	253		339	
4.	Employment rights	73	1.53	93		178	
5.	Urbanism, civil engineering and ecology	69	1.45	66		101	
6.	Pension and disability insurance	48	1.01	58		203	
7.	Public utilities services	32	0.67	42		203	
8.	Status rights	15	0.31	27		49	
9.	Social and medical care	10	0.12	18		71	
10.	Access to information	5	0.01	18		26	
11.	Personal freedoms limitation	2	0.04	6		10	
12.	Children's rights	2	0.04	6		2	
13.	Constitutional rights and freedoms	1	0.02	4		4	
14.	Other	192	4.02	283		390	
15.	Total	4 771		4 212		3 370	

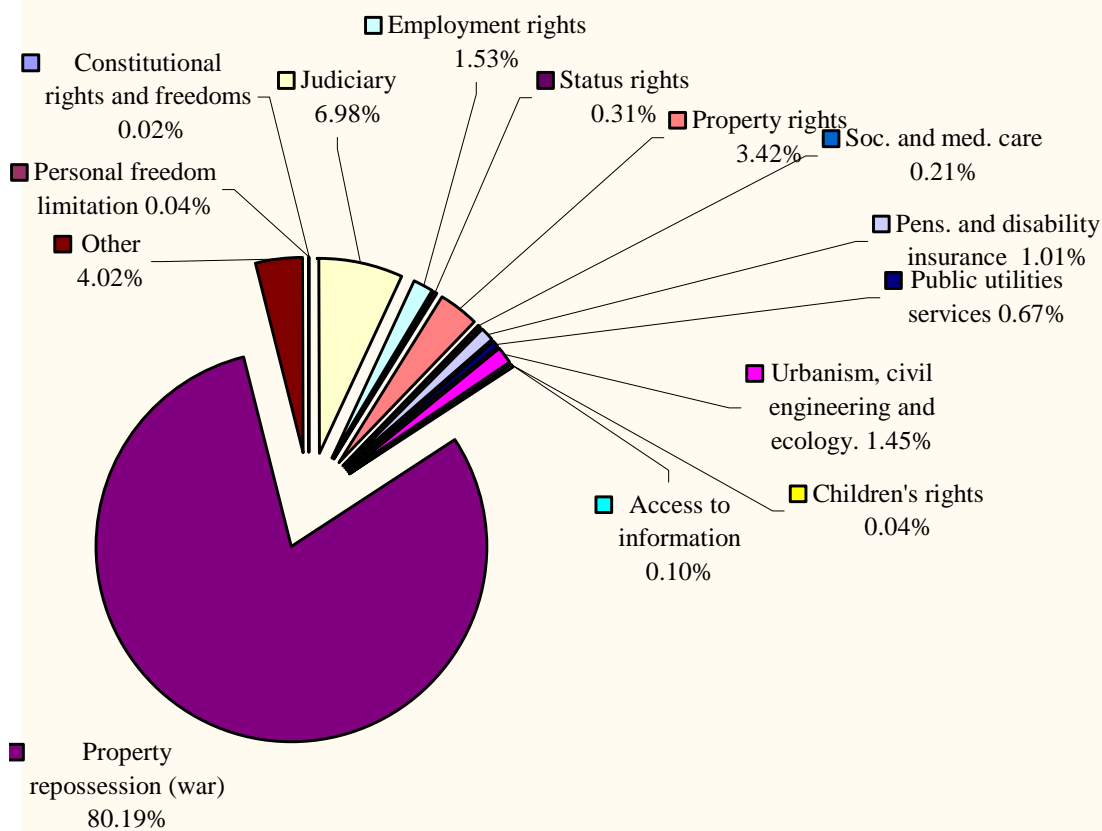
The courts have responded promptly to the interventions of the Ombudsman of The Republika Srpska, they have processed the claims subject cases, appointed the appearance in the courts and undertaken other actions.

Chamber of Human Rights of Bosnia and Herzegovina

188. The Human Rights Chamber in Bosnia and Herzegovina have been established under Annex 6 to the Dayton Peace Agreement, in order to treat the violations the European Convention for the Protection of Human Rights and Fundamental Freedoms, and alleged or apparent discrimination arising in the enjoyment of the human rights and freedoms provided for in the Convention, and 15 others international agreements. To the Human Rights Chamber it is given responsibility of *ratione materiae*, which exceeds the competence of the European Court of Human Rights in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Chamber could analyse violations of the social and economic rights, and its competence for analysing mentioned discriminations has not been restricted. The Chamber could also implement the provisions of other international agreements on human rights and not only the European Convention and temporary measures that it could impose are obligatory for the local authority. It could also introduce the measures, which the authority had to implement in order to realise its (the Chamber's) decisions, which largely exceeds the competence of the European Court of Human Rights for giving restitution. During the last few years The Human Rights Chamber has made several significant decisions for the country, for what it won many praises.

Chart No. 12

Structure of appeals



Although the Chamber's mandate ended in the year 2001, because of the necessity it is prolonged until 31.12.2003. Because of 10.000 cases backlog, from 01.01.2004 this institution is "replaced" by the newly established Human Rights Commission, established under the Dayton Peace Agreement signed by entities' governments and the BiH Council of Ministers, and others were only "witnesses".

The Commission has five members (two international and three local members). The President of the Constitutional Court has estimated that the Human Rights Commission could solve, with its personnel, 50% of cases. In order to solve promptly the total number of received cases and could solve cases backlog received from the Human Rights Chamber; it needs engagement of some number of international and local solicitors.

In order to complete successfully the obligations received from the Human Rights Chamber, it is necessary that the authority bodies in Bosnia and Herzegovina in their budgets provide some funds for financing the BiH Constitutional Court in order to create conditions for its normal operation, and the International community to continue financing the mentioned Human Rights Commission within the Constitutional Court of BiH.

189. The most often themes of the cases of the Chamber operations refer to decisions on property right, rights to access to courts and impartial and prompt procedures with so-called “cases on JNA flats”. Until the end of the year 2002, more than 1.000 such cases have been submitted to the Chamber. The Chamber decided about *meritum* of only 125 such cases. However, hesitation of judicial and administrative bodies of the The Federation of BIH in implementation of the Chamber’s decision relating to this issue, means that only part of such cases could be deleted, having in mind that the case is already solved, while the Chamber permanently used to go to *meritum* of the cases related to the JNA flats. Amendments to the law and/or in administrative procedure, which are necessary in order to execute the Chamber’s decision from December 2001 in the case of Miholic and others (case No. CH/97/60 and others decision on acceptance and *meritum* of December 4, 2001), have not been implemented during the whole year 2000 (neither in the first quarter of 2003). Moreover, even if the judiciary relating to the JNA flats has been changed in order to implement the Chamber’s decision, authority bodies continue to hamper implementation of amendments to the law in individual cases (see, for instance, the Chamber’s decision on case No. CH/99/2028, Crnogorcevic against the The Federation of BIH, decision on acceptance from 11 October 2002).

190. About 2000 “cases on old foreign currency saving” have been submitted to the Chamber. All except about 30 such cases refer to the old foreign currency saving deposited to banks, which currently are in the The Federation of BIH, and the rest to the saving deposited to the banks in The Republika Srpska and Brcko District. In May 2000, the Chamber submitted the decision on the first four such cases. In order to respect the Chamber’s order on the legal remedies, mentioned in this decision, the government and the legislative body of the Federation have changed and amended the relating legislation. However, the decision by the Constitutional Court of the Federation and absence of the reply to the same by the government or legislative body, made questionable the steps already performed by authority bodies of the The Federation of BIH, in order to execute the Chamber’s decision from May 2000. In October 2002, the Chamber made a new decision, which refer to the all foreign currency saving in the The Federation of BIH, in which it stated that:

“Viewed altogether, decision of the Constitutional Court of The Federation of BIH, absence of appropriate legal procedures and the continuation of implementation of the Law on Citizens Claims led to the state of legal confusion relating to the old foreign currency saving of the applicants. There is no excuse for the momentary uncertainty, where the applicants’ claims on their property are forgotten and neglected. Meantime, as the process of privatisation is going on without the explanation of the law, the possible consequences of the applicants’ insisting on their property are becoming more and more serious.”

191. As a result of this, 2000 “cases on old foreign currency saving” which were in the Chamber’s procedure remained unsolved. During the year 2003, the Chamber was investigating again weather the legislative body of The Federation of BIH established the legal framework with which the acceptable balance between the individual applicants’ rights (possessors of old foreign currency saving) and public interest is established. Chances of realisation of the remained cases of old foreign currency saving using the standardised and reduced procedure are very small in this moment.

192. In more than 500 claims which were in the Chamber's procedure referred to the discriminative dissolution of employment -labour relation, mainly on the base of national denomination. Although in most of these cases dissolution of employment is in relation with the armed conflict, the Chamber concluded that *ratione temporis* is responsible for most of the already considered cases. As the several of the Chamber's decision from the year 2002 showed, the present legal framework and the authority bodies practice, both administrative and judicial, do not provide any efficient legal remedy to these applicants. On the contrary, these cases showed-confirmed that after the end of the armed conflict, systematically, violation of the law on the legal disputes was added on the alleged violation of the law in the acceptable period, in order not to be discriminated in the right to employment.

Because of that, the Chamber also concluded that the significant number of the cases backlog which belong to this category could not be considered using any simple, reduced or any other way speedy procedure.

Result of the Chamber's operation is significantly increased during the year 2002: some 675 claims have been solved, which is 80% more in relation to the 377 claims solved in 2001. During the year 2003, the number of solved claims increased by directing the significant part of the Chamber's resource (i.e. working hours of lawyers and interpreters) for making of the decisions in the cases for deleting, cases in which it is possible to make decision according to the model, and in the cases which are obviously unacceptable. However, if such "quantity - oriented" approach will be followed, the Chamber is aware of the risk that there would be processed only the cases which everything is practically decided (because the thing is already solved, or because the Chamber already mentioned the law in the leading decision which refer to this question, and in which way in essence decided about other identical cases too), or the cases which do not show the violation of the Agreement on Human Rights.

Table 10

Number of recorded appeals and solved cases during 1996-2002

Year	Number of recorded appeals	Number of solved cases
1996	31	0
1997	83	10
1998	1 382	68
1990	1 943	336
2000	3 239	412
2001	1 804	377
2002	4 177	675
Total until 31 December 2002	12 659	1 878

Source of data: Reports of the BiH Human Rights Chamber.

Remark: In the first three months of the year 2003, the Chamber has recorded 787 new claims and solved 350 cases, what has increased the total number of claims recorded by the Chamber to 13.446 by March 31, 2003, and the total number of solved cases to 2.228. In the table No. 10 it

is given increase of number of the recorded claims and solved cases in the period of seven years. Annex F in appendix of this report gives a dramatic visual survey of this information. Annex E gives statistic data on kind and number of decisions made by the Chamber by December 2002.

Ministry for Human Rights and Refugees

193. Because of the very complex situation in the field of human rights, in line with the Law on BiH Council of Ministers, in middle of the year 2002 started its operation the Ministry for human rights and refugees, with the main responsibilities: monitoring and execution of the international conventions and other documents from the field of human rights and fundamental freedoms; promoting and protection of the personal and collective human rights and freedoms; coordination in preparation of the reports to the responsible local bodies and institutions and international organisations and institutions on fulfilment of the obligation by Bosnia and Herzegovina, which are requested by the international documents; creations and implementation of activities about fulfilment of the Bosnia and Herzegovina obligations regarding to the admission to Euro-Atlantic integration, and especially on implementation of the European convention on human rights and fundamental freedoms and its protocols; monitoring, preparation and distribution of information on standards, achievements and activities in the field of human rights, cooperation with the religious communities, national minorities and their associations; cooperation with the institutions and organisations responsible for tracing of missing persons in Bosnia and Herzegovina; cooperation with the BiH Red Cross and International Red Cross and humanitarian organisations; care about asylum and refugees rights, who are returning to Bosnia and Herzegovina, implementation of the Annex 7 of General Framework Agreement for Peace in BiH, as well as the monitoring the implementation of that Annex; creation and implementation of the BiH policy regarding to the return of refugees and displaced persons to BiH, reconstruction projects and providing of other conditions necessary for sustainable return; coordination and supervision within the Commission for refugees and displaced persons, activities of entities and other institutions BiH responsible for implementation of the policy in this field; all other activities defined by law or activities which refer to the implementation of Annexes 6 and 7 of the General Framework Agreement for Peace in BiH; gathering, processing, and keeping of all data which the Ministry finds as relevant, in line with the valid standards on protection of data; cooperation with non-government organisation referring to the issues for which the Ministry is responsibly; creation of the BiH policy on immigration, asylum and emigration, and gathering, systematisation, publication and distribution of all data from its responsibility. This Ministry in the past period gave significant contribution in protection and improvement of human rights in BiH. It refers especially to protection of individual human rights of BiH citizens, which were violated in different spheres and on different levels. It is done by initiation of adoption of appropriate laws and documents, which regulate this field, and writing the concrete claims and interventions, all in order of protection of fundamental human rights, based on the standards of international community, its documents - convention, protocols and others. This Ministry in short period gave significant contribution regarding the protection and improvement of human rights and fundamental freedoms in all its segments.

Article 15. Ban on legal retroactivity

194. As the Article 15 of the Stability Pact bans the retroactive implementation of Criminal Code, and included both criminology of certain actions and penalty rate that could be imposed

for the criminal actions, this article demanded that the principle of not retroactivity be performed in the regular Criminal Code, in peace and during the war. No one could be found guilty for the actions or faults which were not considered to be criminal actions according to the local and international laws in the time when they were committed.

195. The Criminal Code of Bosnia and Herzegovina, which came into force on 01.05.2003, emphasised by Article 3 that no one could be sentenced in any way for the action that was not considered to be criminal actions according to the law or international law before it had been committed, and for which the penalty was not sentenced.

196. By the same law, Article 4, it is defined that on the committer of a criminal action it is to be applied the law that was in the power in the time when the criminal act is committed. In the same way, if the law changes once or more times after the commitment of the criminal act, it should be applied the law for which a mild punishment is provided.

Article 15 does not allow any exception of this principle. Also, this Article could not be derogated, even in the cases of emergency state.

Article 16. Right to legal entity

197. According to the legislative of BiH, its entities and Brcko District of BiH, natural person becomes the legal entity by he or her birth.

198. Legal entities of commercial law gain the legal subjectivity by register in the court.

Article 17. Right to privacy

199. The Constitution of BiH, constitutions of the entities and the Statute of The Brcko District of BiH guarantee the right to privacy to all persons. In Article 2 of the BiH Constitution, which is about human rights and fundamental freedoms, it is emphasised that all persons on the BiH territory enjoy human rights and fundamental freedoms which include: the right to life, the right to liberty and security of person, the right to fair hearing in civil and criminal matters, the right to private and family life, home and correspondence, freedom of thought, conscience and religion, freedom of expression, freedom of peaceful assembly and freedom of association with others, the right to marry and to found a family, the right to property, the right to education, the right to liberty of movement and residence etc. All the listed rights and those that are not listed but refer to BiH citizens rights to privacy, are implementing in practice without discrimination on any ground.

200. Invulnerability of flat belongs to the constitutional category of human rights and fundamental freedoms as well as to conventions which are ratified and which became the instrument for the protection of human rights that have legal strength of constitutional provisions. By constitutional and legal provisions in BiH it is confirmed that the flat is invulnerable, that no one, without the ruling of the authority body, can enter the flat against the tenant's will, that the searching of the flat could be done only in the presence of two witnesses, that the tenant or his or her solicitor can witness that searching and that any illegal entrance in the flat and other premises and their searching can be punished.

Because the criminal protection of invulnerability of flat is not defined in the Law on Housing Relations, it is provided in the Criminal Code, where the special criminal actions are defined relating to the invulnerability of flat, and especially are stated: criminal action of violation of invulnerability of flat; unlawful searching of the flat; robbery; grand larceny from the abandoned or damaged flats. Besides these actions of protection, the criminal action could be initiated in the case of damage of dwelling and business buildings and premises, and in the case of the damage and depriving of someone else's things. It is also abuse of official responsibility. It means when it is the case of access to protection of human rights referring to the invulnerability of flat, they are on a high level. But because of the civil war which caused a great number of refugees and displaced persons in the whole BiH, drastic violations of human rights have happened in the field of housing, and along with it violation of the right to flat and the right to peaceful enjoyment and using of the flat.

The situation in that field is showed by data on the base of which we can see radical change of the situation in the housing sector in comparison to the situation in that field before the war. Of the total number of 1.207 693 housing units which existed in the year 1991, during the war 452.000 flats are partly or completely destroyed. Of this number almost 80% of housing units were damaged or devastated. On the base of data from the period from the 1996-2002, about 125.000 housing units are reconstructed for the needs of the return of refugees and displaced persons, with which the hard situation in the field of using the fundamental rights on home and peaceful enjoyment of home is partly alleviated. It should be emphasised that Bosnia and Herzegovina are not able to do the whole reconstruction of devastated housing fond and infrastructure without appropriate donors' help. Because of that the responsible institutions, using planed and strategic activities, decided for preferential reconstruction of about 50.000 of housing units, with which they will provide direct return of about 200.000 displaced persons and refugees in the next four years, what along with the implementation of property regulations (PLIP), will create possibilities for the full implementation of the provisions of Annex 7 to the Dayton Peace Agreement and successfully completed the process of return to Bosnia and Herzegovina. In order to realise defined ambitious and strategic plan, within the Council of Ministries BiH began to operate the Fund for return that works on setting of priorities, common projects and adoption of criteria for selection of users and the realisation of projects. Because of that, it is expected the involvement of the international community in directing of the funds to the Fund and anticipation in the common activities. Considering the fact that degree of the remained devastated and unreconstructed housing units is about 80-100%, according to the past experience and standards, it will be necessary to provide about 900 million KM for finance of the reconstruction of 50.000 housing units.

The table of Comparative indicators of refugees, displaced persons and returnees, implementation of property laws and reconstruction of Bosnia and Herzegovina from the 1991 to 30.06.2003, prepared by the Ministry for Human Rights and Refugees BiH, is attached.

Secret letters and other communication means

201. The article 149 defines data protection of the person of the Criminal Code of Bosnia and Herzegovina in which is specified that the official or responsible person in the institutions of BiH without the acceptance of the person must not present-state, gather, analyse in public his or her

personal data, because it will be in contrast to the conditions defined by the law and the acceptable purpose of their gathering. If it still happened, the official person will be sentenced with custodial sentence of six months maximum.

202. The family life and the right to privacy, family and home, or in other words the correspondence and other means of communication are protected by the Constitution of Bosnia and Herzegovina and the entities' Constitutions, as well as the Brcko District of BiH Statute. Although these rights are protected by the law, according to information from some sources it is concluded that the authorities violated these and other rights in some areas. It was especially done in the cases of families expelled, without realising the real situation and legal rights on both sides. According to the PLIP agencies the number of expulsions for which realisation it was necessary to engage police forces decreased in comparison with the previous years.

Article 18. Right to freedom of religion

203. According to the Article IV, and relating to the Article II, item 3.g. and item 5.a. of the BiH Constitution, at the beginning of the year 2004 the Law on Freedom of Religion and on the Legal Status of Churches and Religious Communities in BiH is adopted. This Law is passed with respect for personal inheritance and traditional values of tolerance and coexistence, of all nations in multiethnic Bosnia and Herzegovina, and for the purpose of contribution to the improvement of mutual understanding and respect of rights to freedom of conscience and religion and to establish unique legal framework within which all churches and religious communities are equal in the rights and obligations without any discrimination.

This Law guarantees the right to freedom of conscience and religious freedom to every person according to the BiH Constitution, the highest international standards for human rights contained in the international declarations and conventions of freedom of religion.

204. By the Article 4 of this Law it is regulated that every person has the right to freedom of religion and beliefs, including the right to freedom of public confessing and not confessing. Everyone also has the right to accept or change religion, as well as freedom - whether alone or in the community with others, in a public way or privately - has the right to express, in any way, his or her religious feelings and beliefs by performing rites, following and observing religious regulations, respect the tradition and other religious activities.

205. According to the existing legislative in Bosnia and Herzegovina, churches and religious communities during the preaching or other activities must not support and spread intolerance and prejudices towards other churches and religious communities and their worshippers and citizens without religious orientation or unable them in their free, public expressing of religion or other belief. They also must not perform rites and other aspects of expression of religion in any way that is opposed to legal order, public security, moral or which have damaging influence on life and health, or on rights and freedoms of others.

206. The Law prohibits any kind of discrimination that is established on religion and belief. Concerning that the next acts are prohibited: attacks and insults of religious officials, attacks and damage of religious facilities and property of the church and other religious communities,

activities which are directed toward stirring up of religious hate against any church or religious community or their members, contempt of any religion, provoking, supporting and arousing of religious intolerance and hate etc.

On the whole territory of Bosnia and Herzegovina during the civil war many religious facilities were ruined and significant cultural monuments, which belong to one or another nation, are desecrated. The activities on reparation of especially those religious facilities, which still serve for the preaching, are currently ongoing. But unfortunately, it must be emphasised that even a decade after the civil war end, some examples of attacks on the religious facilities still happen, sometimes during the religious holidays. It is also recorded that some religious facilities are building on the private land of the owner who belongs to other nation, without agreement and approval of the owner, which leads to the protest and demonstration of insecurity for possession of the private land. It is true that it is not an often occurrence but such cases are recorded in both entities (the Federation of BiH, Konjic-Bradina and The Republika Srpska-Konjevic Polje and Divic-Zvornik). The responsible authority bodies, in line with legal regulations, have already taken measures in order to solve the problem, with expectation that such and similar things will not happen again in Bosnia and Herzegovina.

207. Churches and religious communities have the established codex of religious rights and responsibilities of their members. Concerning it, no one could be forced or disturbed to confess his or her religion or belief, or in any other way participate in religious rites or celebrations of any rite or religious activity of his or her church or religious community. Religious officials and those who are preparing for that service need not to serve in the army, but they could not be prevented to serve in the army if they want it in a line with the law.

208. Churches and religious communities on the BiH territory have the status of the legal entity. The continuity of legally established churches and religious communities in Bosnia and Herzegovina is confirmed by the mentioned law, in accordance with the religious regulations and internal organisations: the Islamic Community in Bosnia and Herzegovina, the Serbian Orthodox Church, the Roman Catholic Church and Jewish Community in Bosnia and Herzegovina, as well as all other churches and religious communities to which the status of the legal entity is recognised before the Law on Freedom of Religion and Legal Position of Churches and Religious Communities in BiH came into force.

209. All churches and religious communities in BiH use the benefits based on their status and privileges, which characterise the non-profit organisations, in accordance to this law and statutory provisions which rule the churches and religious communities, on the condition that they do not distribute the income or profit to private persons, except in the cases when the distributions have legitimate cogitative character.

210. Churches and religious communities, their internal organisation organize independently, according to their internal rules, laws and teachings. They possess their own property and property rights, by which they freely manage. Having in mind that in the previous, socialistic period, the property has been confiscated from most of the churches and religious communities, now there is in preparation the Law on Restitution. By this law, it is expected that the confiscated property will be returned or in other ways compensated on the whole territory of BiH, without any discrimination, according to the law.

211. Churches and religious communities are separated from the state, what means: the state can not recognise to any religion the status of the state religion, neither the status of the state church or state community to any churches or religious community; it has no right to interfere in the internal organisation and work of any church or religious community; it is forbidden to the public government to entangle election, appointment and dismissal of religious dignitaries, establishment of the structure of churches or religious communities or organisations which serve the divine service or other rituals.

212. Public promotion and practice of belief can be prohibited only on the base of the law, in line with the international standards, when the responsible body proved that it is necessary to the benefit of the public security, protection of health, public moral, or in order to protect the rights and freedom of other people, in accordance to the international law and standards. Its opinion about cases of prohibition of public promotion of the belief gives the BiH Ministry for Human Rights and Refugees.

213. According to the BiH current legislation, it is possible to organise new churches and religious communities, on condition that it is requested by 300 adult BiH citizens, without distinction of their ethnic origin and entity citizenship. Under the same or similar name of the existing church or religious community, it is not possible to organise another church or religious community. Nobody can, without agreement of the responsible authority of the church or religious community, use its official symbols, signs or attributes. BiH Ministry of Justice has adopted the Regulation on Register of the Churches and Religious Communities.

Article 19. Freedom of thought, public expression and opinion

214. According to the Article IV 4.a of the Of BiH Constitution, the BiH Parliament in the year 2000 adopted the Law on Freedom of Access to Information in BiH. This law, Article 4, commanded that each personal and legal entity has right to access to information, which are under the control of a public body, and each public body has the appropriate obligation to release such information. The exception of release of requested information is defined only in the cases when the responsible public body prove the exception in line with the Article 6, 7 or 8 for the whole information or a part of information and in cases when release of information is not of public interest. Contrary, if it is to the benefit of public interest, the responsible body will release requested information.

215. It is defined by law that every person must insure that his or her personal information, which are under the control of the public body, are true or depending on the purpose of gathering or using of information to be updated, complete relevant for the legal purpose for which they are stored, and not to be wrong in any other way.

216. If the public body who receives the application is not able to satisfy a demand because of the lack of formal conditions which are defined by paragraphs 2 and 3 of the Article 11, he will as soon as possible, not later than eight days from the day of application receipt, inform in a written form the applicant when it is possible. It is defined that the applicant should be informed about his or her right to address the Ombudsman and to get all possible information for contacting.

217. Freedom of speech and public appearance is established by the BiH Constitution and entities' Constitutions, which give the right to every citizen to criticize the work of the state and others officials and clerks in a public way, the right to submit requests, petitions and to get answer from them if he asks for it. The citizen could not be called to account nor suffer other harmful consequences for the attitudes presented in a public critique or in a submitted request, appeal, petition or suggestion, except if it is the criminal action to do it.

218. Freedom of thought and expression are guaranteed by the BiH Constitution, of the Article II, paragraphs 2 and 3, in which it is emphasised that Bosnia and Herzegovina directly implement all rights and freedoms guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms, as well as by their protocols. These acts have the priority over all others laws.

219. It should be emphasised that in Bosnia and Herzegovina, in accordance with appropriate articles of the Stability Pact, are provided some aspects that protect rights to freedom of thought and public expression. On the one side, it is absolutely guaranteed to the citizens their right on the freedom of thought without harassment, and the right of expression on the other side, which of course, in some defined situations allowed by the law, can be subject of some legal restrictions, but always having in mind that expression of some political opinion will not be a reason for discrimination against the particular person, or even restriction of the person's freedoms by the authority body. According to our knowledge, there are no recorded cases of harassment based on the freedom of thought and expression.

220. The issues regarding to the control of the press and other mass media in Bosnia and Herzegovina, responsible authority bodies have less discussed about the editorial politics of any mass media or organs of public opinion, even about those, which have capacity of public broadcast service on citizen's duty. It is also confirmed by information of departments for media help, which operate within the OHR. But the journalist and mass media have often been under different kinds of pressures, blackmails and even physical attacks by individuals.

Although it is in contradiction to the Code of profession, from the pages of some printed media, are sent some open blackmail to individuals or groups, calling to cull. As the weapons very often are used unchecked or even made up information. Not only that some editors and journalists often violate consciously the Code which they adopted by themselves, many of them ignore the existence of decision of the Council for press, as the body for supervision and mediation in the self-regulation. As a result of such a situation is the fact that journalists are organised in six associations. All attempts and initiatives to unite them have not given any results.

221. Although the Law on Protection from Calumny came into force in the year 2002, and its implementation has began on the whole territory of Bosnia and Herzegovina, some important tendencies are noticeable. The first is - the huge increase of appeals against journalists and media, quite larger than in the several past years, which were characteristic for that. The second is - unjustified long procedures on appeals for reimbursement of damage/loss in the cases of calumny, although the law defined urgent acting. The third - relatively small number of

sentences. The fourth - relatively large number of temporary measures for prohibition of writing already in the first year of implementation of the Law ... The amount of reimbursement claims in most cases ranges from 2.000 and 20.000 to 200.000 KM. There were several cases where the fines were higher than half a million, and even one million KM.

In the cases of pressures, the international organisations and professional journalist associations responded most often, because it is quite obvious that the attack on the journalist - verbal or physical, indirect or direct - weakens the process of democracy and endangers the freedom of every citizen.

222. In the larger number of independent analyses there is undivided opinion that during the last electoral campaign the electronic media were mainly neutral and that they respected "electoral rights" imposed by the elections commission, while the papers - more or less - were their campaigns, often opposite to the professional standards. The language of incitement, which used to be national and was not unknown to most media, this time is partly present only in the press and it had mainly political and often ideological sign. Although the part and political orientation of the paper is in fact a common thing in the world - they even in our country cherish their own comments - in the past elections in Bosnia and Herzegovina the papers most often tried to hide their political orientations, which makes their position suspicious. Some newspapers were trying to hide the mere facts, which is more dangerous and it devalues their convincing and role. Such an access could not be defined otherwise than as partial and unprofessional.

The most often violations of human rights in media happen when journalists do not respect their own Codex and do not keep "high ethical standards in any moment and on any conditions" (Codex for press, Article 1). Such examples are very frequent in cases when journalists and media do not allow to "all sides in the dispute" to express their opinions about reports and commentaries on controversial themes, in cases of making conclusions (especially in court cases), cases of disregard of protection of identity of minors (as the victims and witnesses of criminal actions), disregard of copyrights etc. However, the great number of complaints against media and journalists for calumny and reimbursement claims can become a limitation factor for media freedoms. On the other side, it can be an indicator of a massive jeopardization and violation of human rights in media.

223. Right to free access to all information in possession of public authorities is founded by the appropriate laws on the BiH state level, from the year 2000, and in both entities from the year 2001. Although all authority bodies - executive, legislative, administrative and judicial, and all legal persons under control of the public authority - have been obliged to make adequate preparation for implementation of the Law on Freedom of Access to Information, and to inform the Ombudsmen institution about that, that obligation has until now been fulfilled only in part of them. It is true, in both entities relevant sub-laws (guidelines, index, register, forms of claims, instruction on costs), but the obligation of regular three-month's reporting to the Ombudsmen about number of received cases for access to information and way of their solution have not been respected.

It should be stressed the practice of the supervision by the Regulatory Agency of Communication (CRA), which with its permanent and "strict" supervision cleaned many programmes from the language of animosity and made them to be in line with the themes which directly influence the interest of citizens, although there are objections on its works.

224. The issue of access of the foreign journalists to information and circulation of the foreign press inside the country, and number of foreign newspapers and journals which are imported and distributed in the country is defined with appropriate laws and regulations, and there is no discrimination in that field.

Article 20. Ban on spreading war propaganda

225. According to the BiH Constitution and the BiH Criminal Code, and the constitutions and Criminal Codes of entities and The Brcko District of BiH, calling and motivation on the war is a criminal act, for which it is provided the prison sentence up to 10 years.

226. It is unconstitutional an punishable each provocation and motivation of the national, racial, religious and other inequality, as well as provocation and incitement of the national, racial, religious and other hate and intolerance.

Article 21. Right to peaceful assembly and free association with others

227. By the BiH Constitution, the entities' Constitutions and the Statute of The Brcko District of BiH it is guaranteed freedom of peaceful assembly. This issue is defined by the Law on Peaceful Assembly of Citizens on the state level, on the both entities' levels and The Brcko District of BiH, which assembly of citizens consider as free and democratic, if they implement in line with the law and regulations. Assembly of citizens, in the figurative sense of laws, which are in power, means call a meeting and performance of assemblies on the place suitable for that purpose.

Public assembly in moving may be performed only in the uninterrupted motion, except on the place of beginning and finishing.

228. By the Article 5 of the Law on Protection of the Rights of National Minority Members, it is guaranteed the right on free assembly and free association with others to all national minority members in order of expression and protection their cultural, religious, educational, social, economic and political freedoms, rights, necessity and identity.

229. For the performance the assembly, it is necessary that the organiser submits its request to the Ministry of Internal Affairs - its organisation unit on the area where the public assembly will take place, at least 48 hours before the assembly schedule time. The request is to be submitted to the responsible body at least five days before the assembly schedule day. In the request it is necessary to give the programme and aim of the public assembly, data on the particular place, time, location and duration of the public assembly, data on the measures that the organiser undertakes for the peaceful performance and watchmen, and estimation of the participants. The request for the assembly should contain rout of the motion, starting and finishing location. The public assembly is to be considered announced after submission of the above request. The public assembly that performs without previous announcement, the responsible body will made impossible and undertake for keeping the order and peace. In BiH there have not been recorded any cases of performance of the public assembly without previous announcement to the responsible authority.

230. A public assembly will be temporary prohibited if it is aimed towards: forced demolition of the constitutional order, violation of the territorial unity and independency of Bosnia and Herzegovina, violation of the constitutional freedoms and human rights and citizens, provocation of the national, racial and religious intolerance. The responsibly authority body is obliged to inform the organiser about the temporary prohibition of the assembly.

231. Argumented claim for making decision on the prohibition of the performance of the public assembly should be addressed to the local responsible body within 12 hours. This body is obliged to organise the debate and make decision within 24 hours after receipt of the claim. On the debate should be invited the submitter and the organiser of the public assembly. By its decision, the court may refuse the claim and cancel the decision on temporary prohibition, or prohibit the performance of the public assembly. On this decision the organiser have right to appeal.

232. Reimbursement of material loss to the citizens that were subject of any form of maltreatment due to the exceeding of power in application of the force means by authorised officers of the BiH Ministry of Security, the ministry of entities and The Brcko District of BiH are to be solved only by the court procedure, on the claims for reimbursement of loss, which have to submit the damaged persons, in accordance to the BiH Law on Obligations.

233. A public assembly may be organised by the foreigner too, or participate in the public assembly, only with a previous approval of the responsibly body.

234. A public assembly cannot be announced neither on the public assembly can participate a person sentenced by the court security measure - decision of prohibition of public appearance.

Article 22. Right to association with others and right to political, union and other associations

235. By the BiH Constitution, Article II paragraph 2, (i) it is guaranteed freedom of peaceful assembly and freedom of associations, what means that on the base of this Article of the Pact, each person is guaranteed freedom of association with other persons because of political or other reasons. This supplements Article, the right to the peaceful association recognised by the Article 21 of the Pact.

(a) Associations and foundations

236. The right to association of citizens in Bosnia and Herzegovina, its entities and The Laws on Associations and Foundation define Brcko District of BiH. Association in the sense of these laws is every kind of voluntary association of more natural or legal persons in order to improve or achieve some common or general interest or the aim, in accordance with the Constitution and the law, and which main purpose is not gaining a profit. At least three natural or legal persons can establish the association. It is founded by issuing the establishing act. After establishment it can gain the legal entity by register in the court. Founding assembly of association issues the establishing act, statute of association and appoints the governing bodies.

237. Associations and foundations in Bosnia and Herzegovina define their aims and activities on their own, in accordance with the Constitution and the law. The activity of associations and foundations cannot be in violation of the constitutional order nor directed on its violent undermining, stirring up national, racial and religious hate, intolerance and discrimination prohibited by the Constitution and the law. The aims and activities of associations and foundations cannot include the engagement of political parties and candidates in the election campaign and financing candidates and political parties.

238. Associations and foundations possess their own property in accordance with the statute and law. The control over legality and purposeful using of available funds of association and foundations performs the association or foundation body, defined by the statute and the law, as well as the responsible state body.

239. Associations or foundations which are performing public authorisations are obliged to submit the report of their activity to the administrative body that supervise their operations, at least once per year. If they do not perform their obligations in accordance with their duties, the responsible administrative body which control is obliged to warn the responsible association or foundation body in the written form and to propose measures for eliminate the noticed defects as well as propose some other measures within the scope of its rights and duties. For the illegal actions, the fines are determined.

Table No. 17 is attached.

(b) Political organizing

The right to establishment the political parties is defined by the Law on Political Organising. Keeping the register of political organisations is defined by special rulebook in which is specified the context and the way of keeping the register of political organisations. Political organisation is defined by the law as the independent and voluntary organisation of citizens (party, association, movement, union or other organisation), established in order to achieve political aims.

The activity of the political organisation will be prohibited if it operates: because of violation of the system established by the Constitution; if it works on stirring up national, racial and religious hate or intolerance; if includes minors in its activities or abuse them for political purpose; if becomes a member of the international organisation or association which operate against the above mentioned aims.

It should be emphasised that there are still present quite varieties of political scene in this time in Bosnia and Herzegovina.

According to the tabular survey of verified political subjects for participation in the 2004. elections, 2274 political parties participated in elections in Bosnia and Herzegovina: 70 political parties (The Republika Srpska 31, the Federation of BiH 36 and Brcko District of BiH 3), 80 independent candidates (The Republika Srpska 44, the Federation of BiH 32 and Brcko District of BiH 4), 18 coalitions (The Republika Srpska 5 and the Federation of BiH 13)

and lists of independent candidates 6 (The Republika Srpska 1 and the Federation of BiH 5). If the number of political subjects that did not participate in election activity is added to this list, the list of political subjects in Bosnia and Herzegovina will be quite longer.

Table Nos. 18 and 19 are attached.

Table 11

**Tabular survey of verified political subjects for participation
in the 2004 elections in Bosnia and Herzegovina**

No.	Political subjects	FbiH	RS	Brcko District BiH	Total
1.	Political parties	36	31	3	70
2.	Independent candidates	132	44	4	180
3.	Coalitions	13	5	-	18
4.	Lists of independent candidates	5	1	-	6
	Total	186	81	7	274

(c) Union organizing

240. The right to independent union organising in Bosnia and Herzegovina is defined by both entities' laws and the Statute of The Brcko District of BiH. This way of organising is guaranteed by entities' Constitutions and arranged in detail by labour laws that have been adopted on both entities' levels and The Brcko District of BiH level. Although formulations on that subject are quite general, it is no doubt that employed persons have the right to union organising. Provisions on the right to union organising are more concretely and in detail described in branch and collective contracts.

241. According to available data, the total number of union members in Bosnia and Herzegovina is 478.640, of which 277.450 members in the Federation of BiH and 201.190 members in The Republika Srpska. The Union is organised into associations and branch unions. There are 22 branch unions in the Federation of BiH and 15 branch unions in The Republika Srpska. In Brcko District the union is organised in the year 2001 as voluntary workers organisation of interest. This union embraces about 20% of the total number of employed persons in Brcko District.

Table No. 20 is attached.

242. In Bosnia and Herzegovina, both entities and Brcko District, the workers have the right to strike determined by the Constitutions, laws and collective workers contracts. That right is defined by the Law on Strikes adopted at all levels of the state organisation.

243. Mentioned laws determined employees' rights to strike, the union right to call on strike, employer's right to fire the employee and others things referring to strike. The union has the right to call on and organise strike in order to protect and realise economic and social rights and

interests of its members. The strike can be organised only in accordance with current legal regulations, union rules about strike and collective contract. Employed workers freely decide on their involvement in the strike.

244. The strike is to be announced to the employer in the written form, not later than ten days before the beginning of the strike. Then, they state their reasons for going on strike, place, day and time of the strike beginning. At the same time, the strike organiser is obliged to inform responsible Ministry of Internal Affairs about the time and place of the strike.

245. In line with the entities' Law on Strikes, on the employer's proposal, both the union and employer decide, by mutual agreement, which activities could not be stopped during the strike. The agreement contains the provisions on labours and number of employees who are obliged to work during the strike or expel from work in order to provide minimum of working process (maintenance in production), necessary life and work conditions of citizens and other legal persons, as well as to protect property and prevent endangering of life and personal security or citizens health (health care, power supply, water supply, PTT services, international traffic etc.). It means, during the strike it is necessary to provide minimum of working processes. It should be emphasised that the place of strike is within the company and institution, and movement to streets is defined by the Law on Public Assembly.

246. Salary of the employee, which took part in the strike, can be decreased in proportion to the time spent in the strike, in line with the Collective Agreement and Regulation on work.

247. The employer can submit a request to the responsible court to prohibit organisation and performance of a strike if it is contrary to the above-mentioned regulations and collective agreement and union regulations on strike. The employer can request from the union to reimbursement him the loss because of the strike that has not been organised in line with the law. In the same way, the union can request from the responsible court to prevent expulsion of employees from the working process if it is done contrary to the law. Union, too, can request from the employer reimbursement of the losses that the union and employees suffered because the expulsion from the working process, which has not conducted in line with the provisions of mentioned law.

In the case that union has organised the strike contrary to the law, there are proscribed the penalties from 500,00 to 2500,00 KM. For employer's offence, there are proscribed the penalties from 1000,00 to 5000,00 KM.

248. Bosnia and Herzegovina have been characterised by numerous strikes and social unrest in the past period. The whole country in the past years was characterised by unrest against the employers, local/entity and state government. Because of the very bad economic situation and missing the signs of improvements, among the others protested the following: retired persons, educational and health care workers, miners, industrial workers, farmers, war disabled persons, member of the family of killed and missing persons, state officers (tax administration, inspections authorities...) etc. The most often reason of the strikes were small or unpaid salaries. The mentioned protests were regularly accompanied by requests for removal of management or resignation of politicians. There are many cases in which employers have not paid the salaries

for more than ten months. Very frequent reason for protests were malversation in privatisation, which lead many companies to complete collapse, and employed workers became jobless, and without any perspective to find another job. In the most cases, new company owners have no intention for revitalisation of the previous company activities, so the workers from the very beginning were in the position of “workers on waiting”, and then the total loss of the jobs. Taking into account the discrimination of BiH citizens during employment, because of ethnic and party affiliation, nepotism and corruption, it is possible to say that in Bosnia and Herzegovina the right to labour is one of the most jeopardise human rights.

249. Retired persons in BiH, with no doubt, are the most jeopardised category of population. In both entities, according to data of August 2004, the status of retired person had 470.2000 persons. On the Pension and Invalid Insurance Fund of The Federation of BiH there are 286.576 persons, and in the same period in The Republika Srpska 183.640 persons. It means that number of employees exceeds the number of retired persons, in proportion 1:0,8%. The average pension for August 2003 in The Federation of BiH was 190,00 Km, and in The Republika Srpska 135,00 KM. If as the measure of poverty we take UN criteria, than the average retired person in BiH is extremely poor person.

There is still discrimination of BiH citizens on achievement their rights on pensions, because the returnees (former refugees and returned persons) cannot realise their right to the pension on the location where the pensions were earned. It refer concretely to the Pension and Invalid Insurance Fund of The Federation of BiH: the decision by the Human Rights Chamber, which refers to these questions, on requests some 15.000 retired persons, which gain their right to pension on the territory of The Federation of BiH.

250. In contest of the mentioned, we point out the problem of return of “old foreign currency savings”, which in the past period and nowadays burdens the whole BiH society. Unfortunately, in this case, among others, on whims of fate is the poor population of retired persons, who were keeping their reserve in form of savings for old days.

Article 23. Right to family and marriage

251. By the BiH Constitution, Article II, paragraph (j), by entity family laws and family law of The Brcko District of BiH, are defined the positive and negative assumptions for marriage, as well as prohibition of marriage. Positively defined assumptions for valid marriage are: legal age (18 years of life), difference of sexes, agreed statement of will of spouses, legal form of marriage contract for the purpose of life community, while the negative assumptions for valid marriage i.e. marriage obstacles are: marital status, inability to judge, kinship, under-age and, absence of will (force and delusion).

252. By the family laws in Bosnia and Herzegovina are defined family-legal relationships between spouses, parents and children, adopter and adopted, tutors and wards and relationships between other relatives in the marriage alliance, illegitimate alliance or adopted family, and procedures of authority bodies relating to the family relationships and tutorship. The family laws which are in effect in Bosnia and Herzegovina defined family-legal relationships: contract a marriage, spouses personal rights and duties, dissolution of marriage, relationships between parents and children and other relatives, adoption, tutorship, alimony, property relationships between spouses and other relatives and certain ways of legal protection of families.

253. In the BiH legislation the marriage is defined as organised life community between woman and man. It is based on the free decision of man and woman to contract a marriage, on the equality of spouses, mutual respect and aid.

254. The marriage is contracted between two persons of different sexes in accordance with free stated wills in the presence of responsible administrative bodies. In order to contract a marriage legally, the persons who intend to get married submit an application to the registrar in the municipality in which they want to contract a marriage. According to the statements of persons who want to get married, the registrar check weather the assumptions for contract of a marriage and validity of a marriage are fulfilled. Immediately after the contract of a marriage is done, the marriage certificate is issued to the spouses.

In regard to conditions for valid contract of a marriage, the illegitimate relationship is equalled with the marital relationship.

In Bosnia and Herzegovina, in accordance with the request of the Pact, there is no obstacles to perform the marriage ceremony according to religious ceremonies, but the marriage must be confirmed and registered within the civil law, i.e. first civil marriage and then religious. It means that there is no discrimination concerning prohibition of marriage and ceremony in religious facilities.

255. In accordance with legal regulations, marriage is not valid if the spouse agreed to get married: out of fear or under a threat, if he agreed to get married in delusion etc. A person who is not able for reasoning because of mental illness or other reasons cannot contract a marriage. Kinsmen cannot contract a marriage between themselves as well as relatives-in-law. For the justified reasons the court can in the out-of-court settlement permit contract of a marriage between relatives-in-law. The adopter and the adopted cannot contract a marriage during the lasting of incomplete adoption. It is the same for the ward and the tutor.

A marriage cannot conclude a person who has not fulfilled 18 years. In justified reason the court can in a out-of-court settlement permit marriage to minor older than 16 years, if it approves that this person is physically and mentally capable for acting right and duties which derive from the marriage.

256. The spouses are equal in the marriage, and are obliged to respect and assist mutually. According to the temporary data, there is no sexual discrimination in cases obtaining or losing of citizenship because of marriage.

257. The marriage ends by death of spouse, by announcement a spouse as missing person, by annulment of a marriage or divorce. The marriage announces annual, if it is proved that there existed some of mentioned marriage obstacles in the time of marriage conclusion.

258. A divorce appears when the marital relations are heavily disarranged, because the common life has become unbearable. Husband has no right to claim for a divorce during pregnancy of wife and until their child fulfils one year. Before submitting a claim, or a mutual proposal for a divorce, the spouses having their mutual or adopted underage children, or children with extended parents right, are obliged to go to the process of reconciliation under the

responsible tutorial body. In the process of reconciliation, the responsibly tutorial body, having in mind interest of children, will try to made an agreement between the spouses on protection, education and alimony of mutual underage children, alimony of the spouse, division of common property and other issues important for education of their minors, marital and family community which ends.

According to the data, in Bosnia and Herzegovina there were 151.518 marriages and 12.160 divorces in the period from 1996 to 2002.

Table No. 21 is attached.

259. According to the current legislation in BiH, a parent Parents are equal in performing their parental right and duties. Parents perform their parental right by mutual agreement. In the case of disagreement the responsible tutorial body decides about it. The parental right ceases when the child becomes adult or when the child contracts a marriage before the legal age.

Article 24. Protection of juveniles

260. Mutual alimony of family members and other relatives is their duty and right. Parents are primarily obliged to sustain their minors, and in performing that obligation, they must use all their possibilities. The parent whose parent right was revoked, is not free of its alimony obligation for his/her minors.

261. Parents have the right and obligation to protect their minors and care about their life and health. According to the law regulations, the minors have right to live together with their parents. If interest of the children or parents is justified, minors can live separately from their parents. Parent's right and obligation is to care about education of their minors. Parents are obliged to make possible school attendance of their children, according to their capabilities, potential and real wishes.

262. If interests of child so request, parents can entrust their child to a third person for care and education, with previous approval of the responsibly tutorial body. A child cannot bi given for protection and education to a person who cannot be tutor.

263. In general, protection of minors in BiH by parents, by state and society from discrimination based on colour, sex, religious, national and social origin, belongings or birth, are performed on the highest international level. There are respected rights of each child to be registered in the birth registry and has a name, It is, also, respected the right of the child to gain the citizenship of the birth country. This right is respected on the entity levels, too, which issue the certificates of citizenship in line with the constitutional regulations and laws.

However, in practice there are cases of violation of the children rights: discrimination of certain children groups because of their ethnic membership, religion, and political membership of their parents. The most often cases refer to prevented access to school facilities or impose the subject of religious education the children from mixed parents. In great number of places in

BiH, newborn children have not been registered in the birth registries. By such cases the children rights are violated especially in Federation BiH, for example: right to name, identity, citizenship and other rights guaranteed by birth. Until now, there are no evidences on number of such kind of children, especially of children born out of the health facilities. Their number is estimated to be between 3.000 and 5.000 of children.

Among the recorded cases of violence of children there are some cases of paedophile (Ilijas, Banja Luka, Sarajevo etc.) and other kinds of sexual exploitation of children. Although all laws on medical care for children guarantee the right to medical care to all children from 0 to 7 years, there is often the absence of that protection because the children parents do not have health insurance, so according to some estimates between 40% and 50% of children in Bosnia and Herzegovina do not have health insurance and there is about 1/3 of children of the total number of population in BiH.

Article 25. Electoral system

264. Holding of free elections in Bosnia and Herzegovina is regulated and guaranteed by the BiH Constitution, the entities' Constitutions and The Statute of The Brcko District of BIH. According to the mentioned documents the BiH citizen has the right to elect and to be elected. The elections are direct, the right to vote is general and equal to everybody, and voting is secret.

Political parties, other political organisations and groups of citizens propose the candidates for the candidates' list (election lists).

265. In line with the Article II.1, Article IV 1,2 and 4.a) and Article V 1.a) of the BiH Constitution and the Article V of Annex 3 (Agreement on elections) of General Framework for Peace in Bosnia and Herzegovina, aiming promotion of free, fair and democratic elections, by which achieves realisation of democratic aims, on the both Houses of BiH Parliament in the year 2001, it is adopted Law on Election in BiH. By this law it is defined election of delegates and members of BiH Parliament, and strengthens principles that rule the elections of all level of government in BiH.

266. All citizens of BiH, who have voting right, have right to register and vote personally in the municipality of their residence. Citizens of BiH, who live temporary abroad and have voting right, have the right to register and vote personally or by post for the municipality of residence before departure abroad. Citizen of BiH, who have double citizenship in line with Article 7.d of BiH Constitution, have right to register and vote, only if BiH is the country of his/her residence.

267. According to the BiH Election law, no one person who is serving the prison sentence passed by the International Tribunal for War Crimes in former Yugoslavia, and no person indicted by this Tribunal and has not appeared in the Tribunal on its request, can not register in order to vote, neither can be a candidate or have any appointed, voted and other function on the territory of BiH. It means, as long as a political party or coalition has on function or position a person described above, it will be considered that he do not fulfil conditions for participation in elections.

268. No one person serving the sentence passed by the Court of BiH, the Court of Republic Srpska, or the Court of The Federation of BiH or the Court of The Brcko District of BiH, or who has not obeyed the request by mentioned courts because of the serious violations of the humanitarian right, and the International Court for War Crimes has proved that he or she has violated such rights, can not be registered for election, can not be a candidate, nor have any electoral or other public function on the BiH territory.

269. Responsibly bodies on all levels of government must not discriminate persons because of their membership to a political party or coalition or because of support to independent candidate or to the list of independent candidates.

270. The bodies responsible for implementation of election are the Election Commissions and election boards. Candidates for the BiH Election Commission are proposed together by the members of the Commission for appointment of judges of BiH Court and members of BiH Election Commission. In line with its procedures, the BiH House of Parliament appoints the members of the BiH Election Commission from the list of candidates. Members of Election Commission have immunity and cannot be called to criminal or civil account for the action done within the function in the BiH Election Commission after the BiH Election Commission has submitted a proposal for depriving of immunity.

The Election Commissions of entities are formed in accordance with entities' laws. Their authority is determined by the BiH Election Commission, in line with the BiH Election Law. The way of election and structure of all other Election Commissions is defined by entities' laws and according to the provisions of the mentioned law.

271. According to the BiH Election Law, BiH citizens will not be deprived of any right because he has registered for the elections, nor because he has registered to vote for the municipality in which he or she does not live presently. The voters will not be asked to show documents of registration or voting, which are issued by responsible municipal bodies. Responsible municipal bodies which keep the registry, are obliged to inform the body about the dead persons who were older than 18 years and who had lived in that municipal before their death. The police body, which keeps the evidence about the residence, is obliged to deliver, to the responsible municipal body, data about all persons who has reached 18 and who have registered the residence in that municipality, as well as data about the persons who have cancelled the residence from that municipality. The responsible court is obliged to submit to the municipal body the effective court decision, by which a person is deprived of the business capability. The members of armed forces, with some additional data may be registered for election if they submit data on the municipality for which they want to vote. According to the mentioned law, if they are registered for election, they can vote in absence in the municipality in which their deploying is planned.

A person which name is missing in the Central Election list, or consider his/her data as incorrect, can submit a claim to the municipal election commission, requesting to be recorded or corrected his data in the Central election register, in line with the Chapter 6 of the mentioned law. By the BiH Election law, there are, too, protected rights of BiH citizens who now live abroad.

272. Political parties, independent candidates, coalitions and lists of independent candidates, in order to participate in election, must submit proofs about fulfilment conditions defined by the law, which verify BiH Election Commission. Requests for verification consists if lists with name and surname, original signature and unique personal numbers of all voters who support the application of the political party or independent candidates. If the BiH Election commission refuse the application, the applicant has right to submit its claim to the Election commission to reconsider the application. The Election commission makes its decision within three days.

After verification of the lists, the political party, coalition or independent candidates submit the lists for election of Members of BiH Parliamentary assembly and candidates for the BiH Presidency members to the BiH Election Commission. Candidate's lists for the elections for all other levels of government submit the political parties, coalitions and independent candidates lists to the responsible Election Commission in the election unit in which they are appointed for candidacy. After confirmation that the candidate list is submitted in accordance with the law, the responsible election commission submits the candidate list to the BiH Election commission on verification. Voting is holding in the polling places unless it is defined otherwise by the law. The polling place can not be located within religious facilities, government bodies building, in the building which is the property of the political party or in which is the seat of the political party, the building which is used as a place for torture or maltreatment. The voter votes in the special room in which the voting secrecy is ensured.

In the cases when the voter is blind, illiterate or disabled, on his or her request the president of the Electoral board is obliged to allow the use of procedure in which the other person, who is picked by the voter, help that voter to sign the excerpt from the Central Electoral Register and during the voting.

273. The protection of the right of voting is provided by election commissions, the Election Council for objections and complaints and the Appellate Department of the BiH Court. In accordance with the Article 6.10 of the BiH Election Law, when the BiH Election Commission decides on objections and complaints, it has the right to order to the election commission, center for voters' registration or the Electoral board to undertake measures, which will eliminate discovered irregularities. There are also measures of fines, removing from the list the candidate who has violated the legal procedure, cancellation of verification of the political party and coalition, and the prohibition of engaging the person in the polling places and other electoral activities which are not in accordance with the law.

274. If the Election Commission or the Election Council for objections and claims finds that a criminal act is made referring to the election procedures, it is obliged to submit a request to the responsible public prosecutor, in line with the entities' law and The Brcko District of BiH law.

The Appeals Department of BiH Court is obliged to solve the appeals on decision of Election commission or Election council for objections and claims. An appeal is to be submitted to the Appeals department of the BiH Court within five days after the decision is made by the Election commission or Election council for objections and claims.

275. Members of BiH Presidency, who are to be elected directly from the territory of The Federation of BiH - one Bosniak and one Croat are voted by voters registered in the The Federation of BiH. A voter registered in the The Federation of BiH may to vote either for the Bosniak or the Croat, but not for both. It is elected Bosniak or Croat candidate who got the most number of votes from the same constitutional people.

The Member of the BiH Presidency, who is to be elected directly from the territory of The Republika Srpska - one Serb, is voted by the voters registered in The Republika Srpska. It is elected a candidate who gets the great number of votes.

276. Procedure of election of delegates in the House of BiH Parliamentary assembly is defined in the provision of Article 18.16 of the mentioned Law. The House of Representative of BiH Parliamentary assembly consists of 42 members, from whom 28 delegates are voted directly by the voters registered in The Federation of BiH, and 14 delegates are voted by the voters registered in The Republika Srpska. The mandate of members of the House of Representatives and the House of People of the BiH Parliamentary assembly last four years.

Among 28 members, who are directly elected by voters registered on the territory of The Federation of BiH, 21 are elected among the complex electoral units according to the formula of proportional representation, in line with Article 9.6 of the law, and seven (7) are compensation mandates of elected from the territory of The Federation of BiH.

Among fourteen (14) members, which are directly elected by voters registered on the territory of The Republika Srpska, nine (9) are elected among the complex electoral units according the formula according to the formula of proportional representation, and five (5) are compensation mandates of elected from the territory of The Republika Srpska as whole, in line with the Article 9.7 of the BiH Election Law.

277. House of Representatives of the Parliament of The Federation of BiH consists of ninety-eight (98) delegates who are directly elected by voters registered to vote on the territory of the The Federation of BiH.

The mandate of delegates of the The Federation of BiH House of Representatives lasts four (4) years.

National Assembly of RS consists of eighty-three (83) delegates, who are directly elected by voters registered to vote in The Republika Srpska. Certain number of delegates is elected among the complex electoral units according to the formula of proportional representation in line with the Article 96 of the BiH Election Law.

278. The mentioned law defines the principles that are also valid for the elections in The Brcko District of BiH. It means that the Election Commission of Brcko District of BiH has the same functions, duties and responsibilities in the implementation of the electoral activity, unless defined otherwise by the Article 12.7 paragraph 2. of the BiH Election Law.

We emphasise that in Bosnia and Herzegovina for the first time after the end of the civil war in 2004 are successfully organised and implemented the elections by local authorities.

In order to illustrate, we give in attachment a summary of voters' response in both entities and in Brcko District of BiH and statistic data of engagement of political parties and candidates in the 2004 elections held in BiH.

Tables No. 22, 23 and 24 attached.

Article 26. Equality before the law-ban of discrimination

279. Enjoyment of rights is guaranteed by the Constituent of Bosnia and Herzegovina, by the entities' Constituents and by the Statute of The Brcko District of BiH. It is guaranteed to all the persons in Bosnia and Herzegovina to enjoy all rights without discriminations on any base, such as sex, race, colour, language, belief, political and other opinion, national or social origin, connection with a national minority, property, birth or other status.

280. In the legal system of Bosnia and Herzegovina there is no separate law, which in more details defines issues on racial discrimination. However, this field is comprises in the Law on Rights of National Minorities in Bosnia and Herzegovina, in the Law on Equality of Sex in BiH, in the Criminal Codes of BiH, The Federation of BiH and The Republika Srpska. More detail and wide information on racial discrimination are given in the Report on International Convention on annulment of all kinds of racial discrimination.

281. Unfairness based on any kind of discrimination is sanctioned by the Criminal Code in Bosnia and Herzegovina. In Chapter XV, Article 145 of this Law, it is stressed that official or responsible person in Bosnia and Herzegovina institutions, who are making discrimination on the mentioned bases, will be punished by the prison sentence up to six months.

In the same way, official or responsible person in Bosnia and Herzegovina institutions, who, contrary to the BiH regulations on equal use of languages and alphabets of the constituent peoples and other peoples who are living in territory of BiH, denies or restricts to a citizen, during realisation of his or her rights or while addressing to management bodies or BiH institutions, economic societies and other legal entities, use of his or her language and letters, will be punished by a prison sentence up to one year.

Also, if the official or responsible person in the Bosnia and Herzegovina institutions denies or restricts to the citizen the right on free employment in the whole territory of Bosnia and Herzegovina on equal prescribed conditions, will be punished by a prison sentence from six months up to five years.

Article 27. Rights of national minorities

Bosnia and Herzegovina is the country in which besides three constituent people: Bosniacs, Serbs and Croats, live many members of national minorities. It is necessary to point out that the status of national minorities has not been regulated with a special domestic law, neither in the former common state nor in Bosnia and Herzegovina. It means there was no continuity in use of the legal regulations and thus no regulated legal status of national minority members, so it was necessary to prepare the Law on Protection of the Right of National Minority

Members in Bosnia and Herzegovina, which has been adopted on middle of the year 2003 (Official gazette of BiH, No. 12/03). Another very important fact, which obstruct the full knowledge of the status of national minorities members, is the lack of the census in Bosnia and Herzegovina, so the identification of national minority members is still done on the base of the census in Bosnia and Herzegovina from the year 1991. According to the mentioned census, number of national minority members in Bosnia and Herzegovina was as follow:

Table 12**National minority**

National minority	Number of members
Albanians	4 922
Montenegrins	10 048
Czechs	590
Italians	732
Jews	426
Magyars	893
Macedonians	1 596
Germans	470
Poles	526
Roma	8 864
Romanians	162
Russians	297
Russians	133
Slovaks	297
Slovenians	2 190
Turks	267
Ukrainians	3 929

Data source: Statistical Bulletin 233, Ethnic characteristics of the population, Institute for Statistics R BiH.

From the presented table it is possible to conclude that currently in Bosnia and Herzegovina exist the minority that could be called “traditional” and “new minority”, which are the result of the disintegration of the former common state (Montenegrins, Macedonians and Slovenians). In this actual time, without any respect to the minority origins and their numerousness (from 133 up to 10.046), with the Law on Protection of the Right of the National Minority members (Article 3), it is given the definition of the term “National Minority”, which is that it is “the part of the populations - citizens of Bosnia and Herzegovina, which does not belong to any of the three constituent nations (Bosniaks, Serbs and Croats), and is composed from the people of the same or similar ethnic origin”.

It is necessary to point out that during the war in Bosnia and Herzegovina a large scale of displacement of the total populations happened, according to the estimations, more than

two million of people. This especially effected the minority population. That is reason why the statistical review of numerical state of the national minorities in Bosnia and Herzegovina, without a new census of the populations, is conditional and perform difficulties in implementation and presenting the appropriate assessment of this population conditions. It means, after a future census, it might appear differences in reference to the pre-war census. According to the estimations, that will significantly effect to the state of the Roma populations, although they escape in large scale to the third countries, and are subject of the forcible return from the reception countries after the cease of the conflicts. The reasons for such state are based in the fact that Roma finds the ways of integration to the reception countries more difficulty, it is that they overcome the prescribed procedures for obtaining the permanent residence permissions more difficulty, or emigration to overseas countries more difficulty than the other refugees from Bosnia and Herzegovina.

In order to present this state more precisely, and in order that the responsible institutions could be more efficient in solving the minority problems, the Ministry for the Human Rights and Refugees requested from 70 municipalities, where it is estimated that most of the Roma are living, data on their current number. It is characteristic to point out that only one third of the municipalities in Bosnia and Herzegovina displays larger number of Roma compared to the census in the year 1991. Thus, it is possible to reasonably estimate that in Bosnia and Herzegovina currently live more than 20.000 Roma, what is much larger than 100% comparing to the pre-war census of the populations.

According to the assessment done by associations and clubs that act as non-governmental organisations in the area of Bosnia and Herzegovina, the number of the other national minorities members has decreased in the same proportion as the number of refugee population which has not return to the country after the war.

Although the members of the minority communities during the census in the year 1991 has the right to freely express weather and to which of the minorities they belong, it right showed itself very important during the war, because the belonging to the minority members, whose mother country is outside Bosnia and Herzegovina, make possible protection and aid from that country. Not belonging to any of the constituent nation in Bosnia and Herzegovina, which have been in the mutual conflict, was the reason that the members of particular minorities in many situations were save from the ethnic expel. A large number of national minority members have established associations (NGO) for providing humanitarian and other assistance, or evacuation of its members from the endangered areas, putting them under the appropriate protection of their mother countries or some stronger international association for assistance to the members of particular minority members. In that field especially were active associations of Jews, Slovenians, Macedonians, Czechs, Italians, Hungarians etc. In fact, that represented the beginning of the national minority members identification, their gathering in the organised groups, which after the war conflict, continue their works on issues related to the preserve of their national attributes, traditions, customs, beliefs, language, culture and spiritual closeness. Connection with the mother country by diplomatic and other representatives, and appropriate experts and material assistance, made preconditions for the more durable ways of preserve the mentioned characteristics.

The common characteristic of all minority groups in Bosnia and Herzegovina is that they have established the appropriate associations of their members (association of citizens, clubs, cultural societies or some other way of gathering) and registered them as the NGO in accordance with existing regulations. The exceptions are Roma, which alongside with 32 NGO associations, have established their political party too. Democratic Party of Roma is established in beginning of the year 2003, after general election in Bosnia and Herzegovina held in October 2002, but they did not take part in this election. It is necessary to note that from 17 minority groups in total, only members of the Montenegrins national minority, although they are *de jure* the most numerous group, have no any registered or established form of association. But, according to the actual information, some activities of association of the Montenegrins are ongoing.

282. Bosnia and Herzegovina has not yet concluded any bilateral agreement on protection of the national minorities who are living in it, although all of them except of Roma, have their “mother” countries. Any initiative from other countries towards Bosnia and Herzegovina for conclusion of agreement for protection of the particular minority groups has not yet appeared. Bosnia and Herzegovina had an initiative for conclude an appropriate agreement with the Republic of Slovenia on mutual obligations on protection of the Slovenian minority group in Bosnia and Herzegovina, or protection of the Bosniacs, Serbs and Croats in Slovenia. This initiative is still in the phase of preliminary discussions, but has not yet accepted in the appropriate way in the Republic of Slovenia. We note this in order to show that Bosnia and Herzegovina derives its obligations on protection of national minorities from the Constitution of Bosnia and Herzegovina, Law on Protection of National Minority Members, and international documents that it accepted and ratified after its recognition as the independent state.

283. By the Law on Protection of the Right of the National Minority Members In Bosnia and Herzegovina it is recognised the right of national minority members to be included and represented in all the government levels and other public services in proportion to its percentage in the total populations according to the last census. The term “proportional” in implementation of this law should be interpreted as the minimum of its involvement, and that the actual number of national minority participants could be larger, because Bosnia and Herzegovina has accepted the system of the “positive discrimination” in protection of the national minority rights.

A criteria and election way of national minority members into parliament will be developed by the Bosnia and Herzegovina Election Law, entities’ laws, and statutes and other regulations of the cantons, towns and municipalities. The participation or involvement of the national minority members in the executive and court government, as well as in the public offices, will be regulated by the special regulations, also on the all levels of the state organisation (Bosnia and Herzegovina, entities, cantons, towns and municipalities).

284. The news contained in the Law on Protection of the Right of the National Minority Members in organisation of the state structure are establishment of the BiH Council of National Minorities within the Parliament of Bosnia and Herzegovina, in which should be involved at least one member of the recognised national minorities in BiH. This Council will give to the BiH Parliament its opinions, advises and proposals about all the issues relating to the right, status and interest of national minority members in Bosnia and Herzegovina. It is provided that the

BiH Council of National Minorities can delegate its expert to the works of the Constituent Legislative Commission and into the BiH Commission for the Human Rights, which are working bodies of both parliaments. By the law, it is also provided that national minority councils will be organised within the Parliament of The Federation of BiH and Peoples Assembly of The Republika Srpska, and their scope of work and way operation will be regulated with entities' laws. The governments of both entities started with implementation of these legal regulations.

285. By cooperation with the OSCE Mission, the Bosnia and Herzegovina Ministry for the Human Rights and Refugees in November 2001 held the assembly in which work had took part most of the Roma non-governmental organisations in Bosnia and Herzegovina. The document named "Platform for Roma in Bosnia and Herzegovina" was adopted on that occasion. This document has produced three main results: it is established the Council of Roma in BiH, as the representative association of Roma non-governmental organisations; there are elected members of the Council and Co-ordinator of activities; it is established the Committee for Roma within Council of Ministers of BiH, which on the partnership bases has included the representatives of Roma organisations, and identified the questions (themes) in the fields of political participation on activities relating to the solving questions of the most importance in Bosnia and Herzegovina.

In the beginning of its work, the Committee of Roma in Bosnia and Herzegovina has established the working body (for the first time in BiH) within the highest level of executive government, in which composition are included elected representatives of Roma population. After adoption of the General Framework Plan and Working Programme of activities of this Committee for the period 2002-2006 years, the BiH Council of Ministers passed the decision to financially support realisation of these activities. After that, the General Framework Plan and Working, as the long-term document has passed to the governments of entities, cantons and municipalities in which there are more numerous Roma communities. It is requested from the above mentioned governments to become involved more efficiently in the questions relating to providing of the personal documents for Roma (register books), education, health care, employment and social security, housing, property return etc.

The Committee for Roma has developed its activity towards non-governmental organisations and international institutions that are operating in Bosnia and Herzegovina (OHR, OSCE, UN, Council of Europe, etc.). Its activity is directed especially towards the Development Strategy of Bosnia and Herzegovina, with recommendation that in the Strategy must be contained a chapter devoted to the minorities, with mentioned especially Roma as the most numerous and most vulnerable national minority in Bosnia and Herzegovina. Appropriate attention of the Committee is devoted to the questions of education reform, with the support of the General Framework Law on Primary and Secondary education, which protects and affirms interest of the minorities that are living in Bosnia and Herzegovina, especially the issues relating to the language and culture of each important minority. The important provisions of that law are related to the interest of the Roma population, which is the most numerous, so it is provided that the primary education be cost-free.

286. The Committee for Roma requested the responsible municipal and cantonal authorities to provide the construction and other material for rehabilitation and reconstruction of more Roma houses. It is solved successfully the discriminatory incident of prevention of a Roma house to be

repaired, with only reason that people do not like to have a Roma in his settlement. According to our information it is the only recorded discriminatory case of open intolerance against Roma in Bosnia and Herzegovina.

287. The Committee for Roma with its engagement, and with a help of the BiH Ministry for Human Rights and Refugees and Embassy of Hungary in Bosnia and Herzegovina, organised the sport manifestations with Hungarian Roma, who has a strong association of the Roma organisations, and it is a significant benefit to establishment a more durable cooperation between Roma of the two countries.

288. It is important to show up on the adoption of amendments to both entities' Constitutions, which are based on the Decision of the Constitutional Court of BiH: "all the people in Bosnia and Herzegovina are constituent peoples on all the territory, regardless of their ethnic belongings." One can conclude that with these constitutional amendments were established legal preconditions, or the mechanisms for a stronger protection, not only the vital interest of the constituent peoples, but also an approximate mechanism for protection of the rights of "others", i.e. national minority members. By the constitutional amendments it is provided that in the House of People of Federation of BiH the number of delegates will be parity: per 17 delegates of each of the three constituent nations and seven delegates from others. The number of "others" in the Council of peoples of The Republika Srpska is defined to be four, and per eight from each of the constituent nations. It is provided that "others" can participate on an equal footing in majority voting procedures. By this way of election of the parliamentary houses in both entities, on which there are decision-makings on national interest of the constituent nations and "others" who are living in Bosnia and Herzegovina, are created the assumptions, for the first time, that there are representatives of national minorities in the entities' assemblies. By the Election Law and other regulations it is provided the election procedure of this delegates, and it is expecting that this proclaimed goal will be achieved, step by step. We emphasize this having in mind the fact that in the first attempts of this Amendments implementation on election of the delegates in the House of Peoples and Council of Peoples during election in 2002, there were no satisfied results, because it has not been respected adequate participation of minorities. A drastic example of evading the constituent position of the national minorities in the House of peoples happened in the beginning of 2003 year in the Parliament of The Federation of BIH. Not only that this House has no full number of one of the constituent people defined by the Constitution, in it there are no one delegates of the national minorities recognised by the BiH laws. By this election of delegates of the line of "others" it is obvious that are violated national minority rights defined by the law. In the mentioned concrete case has missed the election of the delegates from the lines of the national minorities, which are reserved for them. The Roma national minority has been practically violated mostly, which are the most numerous minorities in Bosnia and Herzegovina.

289. The Council of Ministers of Bosnia and Herzegovina currently has no data on participation in decision making and employment of the national minority members in the lower level of government, such as cantons and municipalities. Preliminary surveys conducted on this theme showed that members of national minorities, except of Roma population, are proportionally to percentages of its members, involved in organs and governmental institutions, or employed in the governmental structures. Some communities (Jews and Montenegrins) are involved even more than it is their percentage share in the population. Only 3 Roma has position

of councillor/board member in 143 local parliament in Bosnia and Herzegovina (one in municipality of Tuzla, one in the municipality of Sarajevo Center and one in the municipality of Kiseljak), while there is no one in the parliaments of canton.

290. The rights of the national communities in Bosnia and Herzegovina are in charge of entities and The Brcko District of BiH, in other words cantons in Federation of BiH. These and other activities are supported on the state level with the Law of Rights of the National Minorities Members, in which it is fixed that national minority members have right to establish the libraries, video clubs, cultural centers, museums, archives, cultural, artistic and folklore societies, and are guaranteed all the other freedom of cultural expressions, care on maintaining of their cultural monuments and cultural heritage. It is provided obligation of the archives, museums and institutions for protection of cultural monuments which are owned by Bosnia and Herzegovina state and entities that in theirs programme and subjects must be proportionally involved all national minorities, and to protect monuments and cultural heritages of all national minorities.

As the culture is the most often way of activities of NGOs, clubs and societies established by national minority members in BiH, this field is the most frequent form of their connection with the mother countries from which origin the members of the national minorities. It is necessary to mention practical activities conducted by some national minorities in BiH during the year 2002-2003: The representative and monumental Ukrainian poetry anthologies from XVI-XX century, with the title "In spite of winds", as two two-language Serbian and Ukrainian edition by the Society of Serbian -Ukrainian friendship from Banja Luka, the Republika Srpska, are presented. In this way, after a long time, the Ukrainian national minority from The Republika Srpska and BiH was in position to connect culturally and artistically with the mother country, in other words and more concrete with the literary and creativity in Ukraine. It is god to mention the activities of local government of Prnjavor municipality, on which area there are living the most of the minority communities, and which regularly assist financially the activities of cultural organisations and national minority institutions which there are existing on its area. Those are activities of affirmation of creations of Czechs, Italians, Slovenians and others. Traditionally, this activity is specially supported by the responsible institutions from Banja Luka.

In Federation of BiH, to the mentioned and similar activities, an significant attention pays Tuzla Canton, which besides the activities on affirmation of cultural events of associations of Italians, Czechs and Slovenians, pays attention to Roma population, because in this area there are 115 localities on which are Roma living. Besides Tuzla, in Sarajevo have happened too many very successful literary evenings, picture exhibitions, concerts and other musical and other forms of Roma creativity.

291. The provisions of Stability Pact and Constitution of the state that every one has freedom of belief, including the freedom of free public expressions, or non-expression of belief, in Bosnia and Herzegovina have not been conditioned by anything. These rights belong to all BiH citizens, and to the national minorities, too. It is important to mention that in BiH there were no administrative and other obstacles in expression of belief and the right to establish religious institutions. Such obstacles have not been recorded in associations of national minorities' members.

292. The right on informing of national minorities is regulated by the Law on the Rights of the National Minorities (Articles 15 and 16), which guarantees to national minorities to have the right to establishment of radio and TV stations, publishing of papers and other informative means in the languages to which they belong. Radio and TV stations, of which founders are Bosnia and Herzegovina, entities, cantons, towns and municipalities and which perform the role of public offices, are obliged in their programme schemes to anticipate special emissions for national minorities members, and can provide other contents too in national minority languages. The informative public services of Bosnia and Herzegovina are obliged at least once per week to provide a special informative broadcast for national minorities members in their languages. Although this issue is regulated by the law, until now there were no requests and no claims of national minorities for special use of their mother languages in sector of public services, social and health institutions and other institutions.

293. Having in mind that education is one of the fundamental human rights, the authorities in Bosnia and Herzegovina pay appropriate attention to this question, especially during the last two years. So, in all the areas where national minorities have an absolute or relative majority, the lectures are organised in the mother language. Also, independent of the number of national minority members, if they request so, they must be provided to learn History, Literature and Culture in their mother languages, as additional lectures. It should be point out, that these law provisions have not yet been totally implemented, because the Law on the Rights of National Minority Members came to power during the year 2003. Its implementation on all the areas of BiH is ongoing. In the same way, it should be stated that the fundamental laws of entities on primary and secondary education in some way treat the needs of national minorities in education, and about this issue will be paid more attention in the future.

294. It is important to point out that the BiH Council of Ministers, entities' governments and lower government levels have not undertaking nor adopted any restrictive measures in regard cooperation or contacts of national minority members or their associations with other countries, or with the countries with which they share their mutual characteristics. The authority especially supported and stimulated participation and operation of the non-governmental organisations, as in the country so on the international plan.
